रजिस्ट्री सं0 डी0 एल0 (एन) 04/0007/2003–05

REGD. NO. D. L. (N) 04/0007/2003—05

भारत का राजपत्र
The Gazette of India

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

साप्ताहिक
WEEKLY

सं. 9] नई दिल्ली, फरवरी 25—मार्च 3, 2007, शनिवार/फाल्गुन 6—फाल्गुन 12, 1928

No. 9] NEW DELHI, FEBRUARY 25—MARCH 3, 2007, SATURDAY/PHALGUNA 6—PHALGUNA 12, 1928

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह पृथक संकलन के रूप में रखा जा सके
Separate Paging is given to this Part in order that it may be filed as a separate compilation

भाग II—खण्ड 3—उप-खण्ड (ii)
PART II—Section 3—Sub-section (ii)

भारत सरकार के मंत्रालयों (रक्षा मंत्रालय को छोड़कर) द्वारा जारी किए गए सांविधिक आदेश और अधिसूचनाएं
Statutory Orders and Notifications Issued by the Ministries of the Government of India (Other than the Ministry of Defence)

वित्त मंत्रालय

(राजस्व विभाग)

(केन्द्रीय प्रत्यक्ष कर बोर्ड)

नई दिल्ली, 14 फरवरी, 2007

(आयकर)

का.आ. 599.—जबकि आयकर अधिनियम, 1961 (1961 का 43) (यहां आगे उक्त अधिनियम कहा गया है) की धारा 80 झ क की उप-धारा (4) के खंड (iii) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्र सरकार ने 1 अप्रैल, 1997 से शुरू होकर तथा 31 मार्च, 2002 को समाप्त होने वाली अवधि के लिये संख्या का.आ. 193(अ) दिनांक 30 मार्च, 1999 के जरिए तथा 1 अप्रैल, 1997 से शुरू होकर तथा 31 मार्च, 2006 को समाप्त अवधि के लिए संख्या का.आ. 354 (अ) दिनांक 1 अप्रैल, 2002 के जरिए भारत सरकार, वाणिज्य और उद्योग मंत्रालय (औद्योगिक नीति और संवर्धन विभाग) की अधिसूचनाओं द्वारा औद्योगिक पार्क की योजना निर्मित और अधिसूचित की है;

और जबकि, मैसर्स राजस्थान स्टेट इंडस्ट्रियल डवलपमेंट एंड इनवेस्टमेंट कार्पोरेशन लिमिटेड, जिसका पंजीकृत कार्यालय उद्योग भवन, तिलक मार्ग, जयपुर-302005 में है, इंटिग्रेटिड इंफ्रास्ट्रक्चर डेवलपमेन्ट सेन्टर, नागौर, जिला-नागौर, राजस्थान-341001 में एक औद्योगिक पार्क का विकास कर रहा है;

और जबकि, केन्द्र सरकार ने इस अधिसूचना के अनुबंध में उल्लिखित शर्तों के अधीन वाणिज्य तथा उद्योग मंत्रालय के दिनांक 22-09-2006 के पत्र सं. 15/138/2005-आई पी एंड आई डी के अन्तर्गत उक्त औद्योगिक पार्क को अनुमोदित किया है;

अब, इसलिए उक्त अधिनियम की धारा 80 झ क की उप-धारा (4) के खंड (iii) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्र सरकार एतद्द्वारा उक्त खंड (iii) के प्रयोजनार्थ औद्योगिक पार्क के रूप में मैसर्स राजस्थान स्टेट इंडस्ट्रियल डवलपमेंट एंड इनवेस्टमेंट कार्पोरेशन लिमिटेड, जयपुर द्वारा विकसित तथा अनुरक्षित एवं प्रचालित किए जा रहे उक्त उपक्रम को अधिसूचित करती है ।

अनुबंध

शर्तें जिन पर भारत सरकार ने मैसर्स राजस्थान स्टेट इंडस्ट्रियल डवलपमेंट एंड इनवेस्टमेंट कार्पोरेशन लिमिटेड, जयपुर द्वारा औद्योगिक पार्क गठित किए जाने हेतु अनुमोदन प्रदान किया गया है ।

1. (i) औद्योगिक उपक्रम का नाम : राजस्थान स्टेट इंडस्ट्रियल डवलपमेंट एंड इनवेस्टमेंट कार्पोरेशन लिमिटेड
   (ii) प्रस्तावित स्थान : इंटिग्रेटिड इंफ्रास्ट्रक्चर डेवलपमेन्ट सेन्टर, नागौर, जिला नागौर, राजस्थान-341001
   (iii) औद्योगिक पार्क का कुल क्षेत्रफल : 78.80 एकड़
   (iv) प्रस्तावित कार्यकलाप

एन आई सी संहिता के साथ औद्योगिक कार्यकलाप का स्वरूप					
	एन आई सी संहिता				विवरण
क्रम सं.	अनुभाग	प्रभाग	समूह	श्रेणी	
क	2 एवं 3	--	--	--	विनिर्माण

(v)	औद्योगिक उपयोग के लिए प्रस्तावित आबंटनीय क्षेत्र का प्रतिशत	:	92.94%
(vi)	वाणिज्य उपयोग के लिए निर्धारित भूमि का प्रतिशत	:	07.06%
(vii)	औद्योगिक यूनिटों की न्यूनतम संख्या	:	80 यूनिटें
(viii)	प्रस्तावित कुल निवेश (राशि रुपए में)	:	3,34,37,000
(ix)	औद्योगिक उपयोग के लिए निर्मित स्थान पर निवेश (राशि रुपए में)	:	शून्य
(x)	अवसंरचनात्मक विकास पर निवेश जिसमें औद्योगिक उपयोग के लिए निर्मित स्थान पर निवेश भी शामिल है (राशि रुपए में)	:	2,99,87,000
(xi)	औद्योगिक पार्क के आरंभ होने की तिथि	:	31-03-2006

2. किसी औद्योगिक पार्क में अवसंरचना विकास पर न्यूनतम निवेश कुल परियोजना लागत के 50% से कम नहीं होगा । ऐसे औद्योगिक पार्क जो औद्योगिक उपयोग के लिए निर्मित स्थल प्रदान करता है, के मामले में औद्योगिक स्थल के निर्माण कार्य की लागत सहित अवसंरचना विकास पर न्यूनतम खर्च कुल परियोजना लागत के 60% से कम नहीं होगा ।

3. अवसंरचना विकास में सड़क (सम्पर्क सड़क सहित), जलापूर्ति तथा सीवरेज, दूषित जल शोधन सुविधा, टेलिकॉम नेटवर्क, विद्युत उत्पादन एवं वितरण, वातानुकूलन तथा ऐसी अन्य सुविधाएं जो औद्योगिक कार्यकलाप हेतु सामान्य उपयोग के लिए हैं जो निर्धारणीय हैं एवं वाणिज्यिक दृष्टि से उपलब्ध कराई जाती हैं ।

4. दिनांक 1 अप्रैल, 2002 की का.आ. 354(अ) के पैराग्राफ 6 के उप-पैरांग्राफ (ख) में निर्दिष्ट तालिका के कालम (2) में उल्लिखित कोई भी एकल इकाई किसी औद्योगिक पार्क के लिए नियत औद्योगिक क्षेत्र का 50 से अधिक हिस्सा धारित नहीं करेगी । इस प्रयोजनार्थ किसी इकाई का आशय एक या एक से अधिक राज्य अथवा केन्द्रीय कर कानून के प्रयोजन के लिए किसी अलग तथा भिन्न कम्पनी से है ।

5. आवश्यक अनुमोदनों जिनमें विदेशी निवेश संवर्धन बोर्ड अथवा भारतीय रिजर्व बैंक अथवा यथा समय प्रवृत्त किसी कानून के अन्तर्गत विनिर्दिष्ट किसी प्राधिकरण के द्वारा विदेशी प्रत्यक्ष निवेश अथवा अनिवासी भारतीय निवेश भी शामिल हैं, को प्रवृत्त नीति तथा प्रक्रियाओं के अनुसार अलग से लिया जाएगा ।

6. इस अधिसूचना के पैरा 1 (vii) में विनिर्दिष्ट संख्या में इकाइयों के औद्योगिक पार्क में अवस्थित होने के उपरान्त ही इस अधिनियम के अन्तर्गत कर लाभ प्राप्त हो सकते हैं ।

7. मैसर्स राजस्थान स्टेट इंडस्ट्रियल डवलपमेंट एंड इनवेस्टमेंट कार्पोरेशन लिमिटेड, जयपुर उस अवधि के दौरान औद्योगिक पार्क का प्रचालन जारी रखेगा जिस अवधि में आयकर अधिनियम, 1961 की धारा 80 झ क की उप-धारा (4) के खंड (iii) के अन्तर्गत लाभ लिए जाने हैं ।

8. यदि उक्त औद्योगिक पार्क के आरंभ होने में इस अधिसूचना के पैरा 1 (xi) में निर्दिष्ट तिथि से एक वर्ष से ज्यादा विलम्ब होगा तो आयकर अधिनियम, 1961 की धारा 80 झ क की उप-धारा 4 (iii) के अंतर्गत लाभ प्राप्त करने के लिए औद्योगिक पार्क योजना, 2002 के अन्तर्गत नया अनुमोदन प्राप्त करना अपेक्षित होगा ।

9. यह अनुमोदन अवैध रहेगा और मैसर्स राजस्थान स्टेट इंडस्ट्रियल डवलपमेंट एंड इनवेस्टमेंट कार्पोरेशन लिमिटेड, जयपुर ऐसी किसी अवैधता की प्रतिक्रिया के लिए स्वयं ही जिम्मेदार होगा, यदि

(i) आवेदन पत्र जिसके आधार पर केन्द्र सरकार द्वारा अनुमोदन प्रदान किया गया है, में गलत सूचना/त्रुटिपूर्ण सूचना अथवा कतिपय तथ्यपरक सूचना न दी गई हो ।

(ii) यह उक्त औद्योगिक पार्क की अवस्थिति हेतु हो जिसके लिए अनुमोदन किसी अन्य उपक्रम के नाम में पहले ही प्रदान किया गया हो ।

10. यदि मैसर्स राजस्थान स्टेट इंडस्ट्रियल डवलपमेंट एंड इनवेस्टमेंट कार्पोरेशन लिमिटेड, जयपुर (अर्थात् अन्तरणकर्ता उपक्रम) औद्योगिक पार्क का प्रचालन और अनुरक्षण किसी दूसरे उपक्रम (अर्थात् अंतरिती उपक्रम) को हस्तांतरित करेगा तो अंतरणकर्ता और अंतरिती उपर्युक्त हस्तांतरण के लिए अंतरणकर्ता और अंतरिती उपक्रम के बीच निष्पादित करार की प्रति के साथ औद्योगिक सहायता सचिवालय, औद्योगिक नीति और संवर्धन विभाग, उद्योग भवन, नई दिल्ली-11 की उद्यमशीलता सहायता यूनिट को संयुक्त रूप से सूचित करेंगे ।

11. इस अधिसूचना में उल्लिखित शर्तों के साथ-साथ औद्योगिक पार्क स्कीम, 2002 में शामिल शर्तों का अनुपालन उस अवधि के दौरान किया जाना चाहिए जिसमें इस स्कीम के अंतर्गत लाभ प्राप्त किए जाने हैं । केन्द्र सरकार उपर्युक्त अनुमोदन को वापस ले सकती है यदि मैसर्स राजस्थान स्टेट इंडस्ट्रियल डवलपमेंट एंड इनवेस्टमेंट कार्पोरेशन लिमिटेड, जयपुर किसी भी शर्त के अनुपालन में असफल रहता है ।

12. केन्द्र सरकार के अनुमोदन के बिना प्रोजेक्ट प्लान में किया गया कोई भी संशोधन अथवा भविष्य में पता लगना अथवा किसी ठोस तथ्य का उद्घाटन करने में आवेदक का असफल रहना, औद्योगिक पार्क के अनुमोदन को अवैध बना देना ।

[अधिसूचना सं. 27/2007/फा. सं. 178/139/2006-आ.क.नि.-1]

दीपक गर्ग, अवर सचिव

MINISTRY OF FINANCE

(Department of Revenue)

(CENTRAL BOARD OF DIRECT TAXES)

New Delhi, the 14th February, 2007

(INCOME-TAX)

S.O. 599.—Whereas the Central Government in exercise of the powers conferred by clause (iii) of sub-section (4) of Section 80-IA of the Income-tax Act, 1961 (43 of 1961) (hereinafter referred to as the said Act), has framed and notified a scheme for industrial park, by the notifications of the Government of India in the Ministry of Commerce and Industry (Department of Industrial Policy and Promotion) vide number S.O. 193(E), dated the 30th March, 1999, for the period belonging on the 1st day of April, 1997 and ending on the 31st day of March, 2002 and vide number S.O. 354(E) dated the 1st day of April, 2002, for the period beginning on the 1st day of April, 1997 and ending on the 31st day of March, 2006;

And whereas M/s. Rajasthan State Industrial Development & Investment Corporation Limited, having registered office at Udyog Bhawan, Tilak Marg, Jaipur-302005 is developing an Industrial Park at Integrated Infrastructure Development Centre, Nagaur, District-Nagaur, Rajasthan-341001;

And whereas the Central Government has approved the said Industrial Park vide Ministry of Commerce and Industry letter No. 15/138/2005-IP&ID dated 22-9-2006 subject to the terms and conditions mentioned in the annexure to this notification;

Now, therefore, in exercise of the powers conferred by clause (iii) of sub-section (40 of Section 80-1A of the said Act, the Central Government hereby notifies the undertaking, being developed and being maintained and operated by M/s. Rajasthan State Industrial Development & Investment Corporation Limited, Jaipur, as an industrial park for the purposes of the said clause (iii).

ANNEXURE

The terms and conditions on which the approval of the Government of India has been accorded for setting up of an industrial park by M/s. Rajasthan State Industrial Department & Investment Corporation Limited, Jaipur.

1. (i) Name of the Industrial Undertaking : Rajasthan State Industrial Development & Investment Corporation Limited

   (ii) Proposed location : Integrated Infrastructure Development Centre Nagaur, District-Nagaur, Rajasthan-341001.

   (iii) Area of Industrial Park : 78.80 Acres

   (iv) Proposed activities :

Nature of Industrial activity with NIC code					
	NIC Code				Description
S. No.	Section	Division	Group	Class	
A	2&3	—	—	—	Manufacturing

(v)	Percentage of allocable area earmarked for Industrial use	:	92.94%
(vi)	Percentage of allocable area earmarked for commercial use	:	07.06%
(vii)	Minimum number of industrial units	:	80 Units
(viii)	Total investments proposed (Amount in Rupees)	:	3,34,37,000
(ix)	Investment on built up space for Industrial use (Amount in Rupees)	:	Nil
(x)	Investment on Infrastructure Development including investment on built up space for industrial use (Amount in Rupees)	:	2,99,87,000
(xi)	Proposed date of commencement of the Industrial Park	:	31-3-2006

2. The minimum investment on infrastructure development in an Industrial Park shall not be less than 50% of the total project cost. In the case of an Industrial Park which provides built-up space for industrial use, the minimum expenditure on infrastructure development including cost of construction of industrial space, shall not be less than 60% of the total project cost.

3. Infrastructure development shall include, roads (including approach roads), water supply and sewerage, common effluent treatment facility, telecom network, generation and distribution of power, air-conditioning and such other facilities as are for common use for industrial activity which are identifiable and are provided on commercial terms.

4. No single unit referred to in column (2) of the Table given in sub-paragraph (b) of paragraph 6 of S.O. 354(E) dated the 1st April, 2002, shall occupy more than fifty percent of the allocable industrial area of an Industrial Park. For this purpose a unit means any separate and distinct entity for the purpose of one and more state or Central tax laws.

5. Necessary approvals, including that for foreign direct investment or non-resident Indian investment by the Foreign Investment Promotion Board or Reserve Bank of India or any authority specified under any law for the time being in force, shall be taken separately as per the policy and procedures in force.

6. The tax benefits under the Act can be availed of only after the number of units indicated in Para I (vii) of this Notification, are located in the Industrial Park.

7. M/s. Rajasthan State Industrial Development & Investment Corporation Limited, Jaipur, shall continue to operate the Industrial Park during the period in which the benefits under clause (iii) of sub-section (4) of section 80IA of the Income-tax Act, 1961 are to be availed.

8. In case the commencement of the Industrial Park is delayed by more than one year from the date indicated in Para I (xi) of this notification, fresh approval will be required under the Industrial Park Scheme, 2002, for availing benefits under sub-section 4 (iii) of Section 80IA of the Income tax Act, 1961.

9. The approval will be invalid and M/s. Rajasthan State Industrial Development & Investment Corporation Limited, Jaipur, shall be solely responsible for any repercussions of such invalidity, if

(i) the application on the basis of which the approval is accorded by the Central Government contains wrong information/misinformation or some material information has not been provided in it.

(ii) it is for the location of the industrial park for which approval has already been accorded in the name of another undertaking.

10. In case M/s Rajasthan State Industrial Development & Investment Corporation Limited, Jaipur, transfers the operation and maintenance of the Industrial park (i.e., transferor undertaking) to another undertaking (i.e., the transferee undertaking), the transferor and transferee shall jointly intimate to the Enterpreneurial Assistance Unit of the Secretariat for Industrial Assistance, Department of Industrial Policy and Promotion, Udyog Bhawan, New Delhi-11 along with a copy of the agreement executed between the transferor and transferee undertaking for the aforesaid transfer.

11. The conditions mentioned in this notification as well as those included in the Industrial Park Scheme, 2002 should be adhered to during the period for which benefits under this scheme are to be availed. The Central Government may withdraw the above approval in case M/s. Rajasthan State Industrial Development & Invetment Corporation Limited, Jaipur, fails to comply with any of the conditions.

12. Any amendment of the project plan without the approval of the Central Government or detection in future, or failure on the part of the applicant to disclose any material fact, will invalidate the approval of the industrial park.

[Notification No. 27/2007/F. No. 178/139/2006-ITA-I]

DEEPAK GARG, Under Secy.

नई दिल्ली, 14 फरवरी, 2007

(आयकर)

का.आ. 600.—जबकि आयकर अधिनियम, 1961 (1961 का 43) (यहां आगे उक्त अधिनियम कहा गया है) की धारा 80 झ क की उप धारा (4) के खंड (iii) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्र सरकार ने 1 अप्रैल, 1997 से शुरू होकर तथा 31 मार्च, 2002 को समाप्त होने वाली अवधि के लिये संख्या का.आ. 193(अ) दिनांक 30 मार्च, 1999 के जरिए तथा 1 अप्रैल, 1997 से शुरू होकर तथा 31 मार्च, 2006 को समाप्त अवधि के लिए संख्या का.आ. 354 (अ) के जरिए भारत सरकार, वाणिज्य और उद्योग मंत्रालय (औद्योगिक नीति और संवर्धन विभाग) की अधिसूचनाओं द्वारा औद्योगिक पार्क की योजना निर्मित और अधिसूचित की है;

और जबकि मैसर्स राजस्थान स्टेट इंडस्ट्रियल डेवलपमेंट एंड इन्वेस्टमेंट कार्पोरेशन लिमिटेड, जिसका पंजीकृत कार्यालय उद्योग भवन, तिलक मार्ग, जयपुर-302 005 में स्थित है, रीको लिमिटेड, 1/ए झोटवाड़ा एक्स.-II (सरनाडूंगर), जयपुर-302 005 में एक औद्योगिक पार्क का विकास कर रहा है;

और जबकि केन्द्र सरकार ने इस अधिसूचना के अनुबंध में उल्लिखित नियम और शर्तों के अधीन वाणिज्य तथा उद्योग मंत्रालय के दिनांक 4-5-2006 के पत्र सं. 15/91/2005-आई पी एंड आई डी के अन्तर्गत उक्त औद्योगिक पार्क को अनुमोदित किया है;

इसलिए, अब, उक्त अधिनियम की धारा 80 झ क की उप धारा (4) के खंड (iii) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्र सरकार एतद्द्वारा उक्त खंड (iii) के प्रयोजनार्थ औद्योगिक पार्क के रूप में मैसर्स राजस्थान स्टेट इंडस्ट्रियल डेवलपमेंट एंड इन्वेस्टमेंट कार्पोरेशन लिमिटेड, जयपुर द्वारा विकसित तथा अनुरक्षित एवं प्रचालित किए जा रहे उक्त उपक्रम को अधिसूचित करती है ।

अनुबंध

नियम एवं शर्तें जिन पर भारत सरकार ने मैसर्स राजस्थान स्टेट इंडस्ट्रियल डवलपमेंट एंड इन्वेस्टमेंट कार्पोरेशन लिमिटेड, जयपुर द्वारा औद्योगिक पार्क गठित किए जाने हेतु अनुमोदन प्रदान किया गया है ।

1. (i) औद्योगिक उपक्रम का नाम : राजस्थान स्टेट इंडस्ट्रियल डेवलपमेंट एंड इन्वेस्टमेंट कार्पोरेशन लिमिटेड

(ii) प्रस्तावित स्थान : रीको लिमिटेड, 1/ए झोटवाड़ा एक्स.-II (सरनाडूंगर), जयपुर-302 005

(iii) औद्योगिक पार्क का क्षेत्रफल : 124.16 एकड़

(iv) प्रस्तावित कार्यकलाप

एन आई सी संहिता के साथ औद्योगिक कार्यकलाप का स्वरूप				
एन आई सी संहिता				विवरण
क्रम सं.	अनुभाग	प्रभाग	समूह	श्रेणी	
क	2 और 3	--	--	--	विनिर्माण

(v) औद्योगिक उपयोग के लिए निर्धारित आबंटनीय क्षेत्र का प्रतिशत : 97.28%

(vi) वाणिज्य उपयोग के लिए निर्धारित भूमि का प्रतिशत : 2.72%

(vii) औद्योगिक यूनिटों की न्यूनतम संख्या : 542 यूनिटें

(viii) प्रस्तावित कुल निवेश (राशि रुपए में) : 11,18,19,000

(ix) औद्योगिक उपयोग के लिए निर्मित स्थान पर निवेश (राशि रुपए में) : शून्य

(x) अवसंरचनात्मक विकास पर निवेश जिसमें औद्योगिक उपयोग के लिए निर्मित स्थान पर निवेश भी शामिल है (राशि रुपए में) : 8,88,08,000

(xi) औद्योगिक पार्क के आरंभ होने की प्रस्तावित तिथि : 31-03-2006

2. किसी औद्योगिक पार्क में अवसंरचना विकास पर न्यूनतम निवेश कुल परियोजना लागत के 50% से कम नहीं होगा । ऐसे औद्योगिक पार्क जो औद्योगिक उपयोग के लिए निर्मित स्थल प्रदान करता है, के मामले में औद्योगिक स्थल के निर्माण कार्य की लागत सहित विकास अवसंरचना पर न्यूनतम खर्च कुल परियोजना लागत के 60% से कम नहीं होगा ।

3. संरचना विकास में सड़क (सम्पर्क सड़क सहित), जलापूर्ति तथा सीवरेज, दूषित जल शोधन सुविधा, टेलिकॉम नेटवर्क, विद्युत उत्पादन एवं वितरण, वातानुकूलन तथा ऐसी अन्य सुविधाएं जो औद्योगिक कार्यकलाप हेतु सामान्य उपयोग के लिए हैं जो वाणिज्यिक दृष्टि से निर्धारणीय एवं प्रयुक्त हैं ।

4. दिनांक 1 अप्रैल, 2002 की का.आ. 354(अ) के पैराग्राफ 6 के उप पैराग्राफ (ख) में निर्दिष्ट तालिका के कालम (2) में उल्लिखित कोई भी एकल इकाई किसी औद्योगिक पार्क के लिए नियत औद्योगिक क्षेत्र का 50% से अधिक हिस्सा धारित नहीं करेगी । इस प्रयोजनार्थ किसी इकाई का आशय एक या एक से अधिक राज्य अथवा केन्द्रीय कर कानून के प्रयोजन के लिए किसी अलग तथा भिन्न कम्पनी से है ।

5. आवश्यक अनुमोदनों जिनमें विदेशी निवेश संवर्धन बोर्ड अथवा भारतीय रिजर्व बैंक अथवा उस समय प्रवृत्त किसी कानून के अन्तर्गत विनिर्दिष्ट किसी प्राधिकरण द्वारा विदेशी प्रत्यक्ष निवेश अथवा अनिवासी भारतीय निवेश के लिए अनुमोदन शामिल है, को प्रवृत्त नीति तथा प्रक्रियाओं के अनुसार अलग से लिया जाएगा ।

6. इस अधिसूचना के पैरा 1 (vii) में विनिर्दिष्ट संख्या में इकाइयों के औद्योगिक पार्क में अवस्थित होने के उपरान्त ही इस अधिनियम के अन्तर्गत कर लाभ प्राप्त हो सकते हैं ।

7. मैसर्स राजस्थान स्टेट इंडस्ट्रियल डेवलपमेंट एंड इन्वेस्टमेंट कार्पोरेशन लिमिटेड, जयपुर उस अवधि के दौरान औद्योगिक पार्क का प्रचालन जारी रखेगा जिस अवधि में आयकर अधिनियम, 1961 की धारा 80 झ क की उप धारा (4) के खंड (iii) के अन्तर्गत लाभ लिए जाने हैं ।

8. यदि उक्त औद्योगिक पार्क के आरंभ होने में इस अधिसूचना के पैरा 1 (xi) में निर्दिष्ट तिथि से एक वर्ष से ज्यादा विलम्ब होता है तो आयकर अधिनियम, 1961 की धारा 80 झ क की उप धारा 4 (iii) के अंतर्गत लाभ प्राप्त करने के लिए औद्योगिक पार्क योजना, 2002 के अन्तर्गत नया अनुमोदन प्राप्त करना अपेक्षित होगा ।

9. यह अनुमोदन अवैध रहेगा और मैसर्स राजस्थान स्टेट इंडस्ट्रियल डेवलपमेंट एंड इन्वेस्टमेंट कार्पोरेशन लिमिटेड, जयपुर ऐसी किसी प्रतिक्रिया की अवैधता के लिए स्वयं ही जिम्मेदार होगा, यदि :

(i) आवेदन पत्र जिसके आधार पर केन्द्र सरकार द्वारा अनुमोदन प्रदान किया गया है, में गलत सूचना/सूचना अथवा कतिपय तथ्यपरक सूचना न दी गई हो ।

(ii) यह उक्त औद्योगिक पार्क की अवस्थिति हेतु है जिसके लिए अनुमोदन किसी अन्य उपक्रम के नाम में पहले ही प्रदान किया गया है ।

10. यदि मैसर्स राजस्थान स्टेट इंडस्ट्रियल डेवलपमेंट एंड इन्वेस्टमेंट कार्पोरेशन लिमिटेड, जयपुर (अर्थात् अन्तरणकर्ता उपक्रम) औद्योगिक पार्क का प्रचालन और अनुरक्षण किसी दूसरे उपक्रम (अर्थात् अंतरिती उपक्रम) को हस्तांतरित करेगा तो अंतरणकर्ता और अंतरिती उपर्युक्त हस्तांतरण के लिए अंतरणकर्ता और अंतरिती उपक्रम के बीच निष्पादित करार की प्रति के साथ औद्योगिक सहायता सचिवालय, औद्योगिक नीति और संवर्धन विभाग, उद्योग भवन, नई दिल्ली-11 की उद्यमशीलता सहायता यूनिट संयुक्त रूप से सूचित करेंगे ।

11. इस अधिसूचना में उल्लिखित शर्तों के साथ-साथ औद्योगिक पार्क स्कीम, 2002 में शामिल उन शर्तों का अनुपालन उस अवधि के दौरान किया जाना चाहिए जिसके लिए इस स्कीम के अंतर्गत लाभ प्राप्त किए जाने हैं । केन्द्र सरकार उपर्युक्त अनुमोदन को वापस ले सकती है। यदि मैसर्स राजस्थान स्टेट इंडस्ट्रियल डेवलपमेंट एंड इन्वेस्टमेंट कार्पोरेशन लिमिटेड, जयपुर औद्योगिक पार्क स्कीम, 2002 में विहित शर्तों अथवा इस अधिसूचना की किसी भी शर्त के अनुपालन में असफल रहता है ।

12. केन्द्र सरकार के अनुमोदन के बिना प्रोजेक्ट प्लान में किया गया कोई भी संशोधन अथवा भविष्य में पता लगाना अथवा किसी ठोस तथ्य का उद्घाटन करने में आवेदक का असफल रहना, औद्योगिक पार्क के अनुमोदन को अवैध बना देगा ।

[अधिसूचना सं. 28/2007/फा. सं. 178/110/2006-आ.क.नि.-I]

दीपक गर्ग, अवर सचिव

New Delhi, the 14th February, 2007

(INCOME-TAX)

S.O. 600.—Whereas the Central Government in exercise of the powers conferred by clause (iii) of sub-seciton (4) of Section 80-IA of the Income-tax Act, 1961 (43 of 1961) (hereinafter referred to as the said Act), has framed and notified a scheme for Industrial Park, by the notifications of the Government of India in the Ministry of Commerce and Industry (Department of Industrial Policy and Promotion) vide number S.O. 193(E), dated the 30th March, 1999, for the period belonging on the 1st day of April, 1997 and ending on the 31st day of March, 2002 and vide number S.O. 354(E) dated the 1st day of April, 2002, for the period beginning on the 1st day of April, 1997 and ending on the 31st day of March, 2006;

And whereas M/s. Rajasthan State Industrial Development & Investment Corporation Limited, having registered office at Udyog Bhawan, Tilak Marg, Jaipur-302005 is developing an Industrial Park at RIICO Limited, 1/A Jhotwara Ext.-II, (Sarnadungar), Jaipur-302 005;

And whereas the Central Government has approved the said Industrial Park vide Ministry of Commerce and Industry letter No. 15/91/2005-IP&ID dated 4-5-2006 subject to the terms and conditions mentioned in the annexure to this notification;

Now, therefore, in exercise of the powers conferred by clause (iii) of sub-section (4) of Section 80-1A of the said Act, the Central Government hereby notifies the undertaking, being developed and being maintained and operated by M/s. Rajasthan State Industrial Development & Investment Corporation Limited, Jaipur, as an Industrial Park for the purposes of the said clause (iii).

ANNEXURE

The terms and conditions on which the approval of the Government of India has been accorded for setting up of an Industrial Park by M/s. Rajasthan State Industrial Development & Investment Corporation Limited, Jaipur.

1. (i) Name of the Industrial Undertaking, : Rajasthan State Industrial Development & Investment Corporation Limited

(ii) Proposed location : RIICO Limited, I/A Jhotwara Ext.-II, (Sarnadungar, Jaipur-302 005.

(iii) Area of Industrial Park : 124.16 Acres

(iv) Proposed activities :

Nature of Industrial activity with NIC code					
	NIC Code				Description
S. No.	Section	Division	Group	Class	
A	2 & 3	—	—	—	Manufacturing

(v) Percentage of allocable area earmarked for Industrial use : 97.28%

(vi) Percentage of allocable area earmarked for Commercial use : 2.72%

(vii) Minimum number of Industrial Units : 542 Units

(viii) Total investments proposed (Amount in Rupees) : 11,18,19,000

(ix) Investment on built up space for Industrial use (Amount in Rupees) : Nil

(x) Investment on Infrastructure Development including investment on built up space for Industrial use (Amount in Rupees) : 8,88,08,000

(xi) Proposed date of commencement of the Industrial Park : 31-03-2006

2. The minimum investment on infrastructure development in an Industrial Park shall not be less than 50% of the total project cost. In the case of an Industrial Park which provides built-up space for industrial use, the minimum expenditure on infrastructure development including cost of construction of industrial space, shall not be less than 60% of the total project cost.

3. Infrastructure development shall include, roads (including approach roads), water supply and sewerage, common effulent treatment facility, telecom network, generation and distribution of power, air-conditioning and such other facilities as are for common use for industrial activity which are identifiable and are provided on commercial terms.

4. No single unit referred to in column (2) of the Table given in sub-paragraph (b) of paragraph 6 of S.O. 354(E) dated the 1st April, 2002, shall occupy more than fifty per cent of the allocable industrial area of an Industrial Park. For this purpose a unit means any separate and distinct entity for the purpose of one and more State or Central Tax Laws.

5. Necessary approvals, including that for foreign direct investment or Non-resident Indian investment by the Foreign Investment Promotion Board or Reserve Bank of India or any authority specified under any law for the time being in force, shall be taken separately as per the policy and procedures in force.

6. The tax benefits under the Act can be availed of only after the number of units indicated in Para 1 (vii) of this Notification, are located in the Industrial Park.

7. M/s. Rajasthan State Industrial Development & Investment Corporation Limited, Jaipur, shall continue to operate the Industrial Park during the period in which the benefits under clause (iii) of sub-section (4) of Section 80IA of the Income-tax Act, 1961 are to be availed.

8. In case the commencement of the Industrial Park is delayed by more than one year from the date indicated in Para 1 (xi) of this notification, fresh approval will be required under the Industrial Park Scheme, 2002, for availing benefits under sub-section 4 (iii) of Section 80IA of the Income-tax Act, 1961.

9. The approval will be invalid and M/s. Rajasthan State Industrial Development & Investment Corporation Limited, Jaipur, shall be solely responsible for any repercussions of such invalidity, if

(i) the application on the basis of which the approval is accorded by the Central Government contains wrong information/misinformation or some material information has not been provided in it.

(ii) it is for the location of the Industrial Park for which approval has already been accorded in the name of another undertaking .

10. In case M/s. Rajasthan State Industrial Development & Investment Corporation Limited, Jaipur, transfers the operation and maintenance of the industrial park (i.e., transferor undertaking) to another undertaking (i.e., the transferee undertaking), the transferor and transferee shall jointly intimate to the Enterpreneurial Assistance Unit of the Secretariat for Industrial Assistantce, Department of Industrial Policy and Promotion, Udyog Bhawan, New Delhi-11 along with a copy of the agreement executed between the transferor and transferee undertaking for the aforesaid transfer.

11. The conditions mentioned in this notification as well as those included in the Industrial Park Scheme, 2002 should be adhered to during the period for which benefits under this scheme are to be availed. The Central Government may withdraw the above approval in case M/s. Rajasthan State Industrial Development & Investment Corporation Limited, Jaipur, fails to comply with any of the conditions.

12. Any amendment of the project plan without the approval of the Central Government or detection in future, or failure on the part of the applicant to disclose any material fact, will invalidate the approval of the industrial park.

[Notification No. 28/2007/F. No. 178/110/2006-ITA-I]

DEEPAK GARG, Under Secy.

नई दिल्ली, 14 फरवरी, 2007

(आयकर)

का.आ. 601.—जबकि आयकर अधिनियम, 1961 (1961 का 43) (यहां आगे उक्त अधिनियम कहा गया है) की धारा 80 झ क की उपधारा (4) के खंड (iii) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्र सरकार ने 1 अप्रैल, 1997 से शुरू होकर तथा 31 मार्च, 2002 को समाप्त होने वाली अवधि के लिये संख्या का.आ. 193(अ) दिनांक 30 मार्च, 1999 के जरिए तथा 1 अप्रैल, 1997 से शुरू होकर तथा 31 मार्च, 2006 को समाप्त अवधि के लिए संख्या का.आ. 354 (अ) के जरिए भारत सरकार, वाणिज्य और उद्योग मंत्रालय (औद्योगिक नीति और संवर्धन विभाग) की अधिसूचनाओं द्वारा औद्योगिक पार्क की योजना निर्मित और अधिसूचित की है;

और जबकि मैसर्स राजस्थान स्टेट इंडस्ट्रियल डेवलपमेंट एंड इन्वेस्टमेंट कार्पोरेशन लिमिटेड, जिसका पंजीकृत कार्यालय उद्योग भवन, तिलक मार्ग, जयपुर-302005 में स्थित है, औद्योगिक क्षेत्र बगरू-छितरोली, जिला-जयपुर, राजस्थान में एक औद्योगिक पार्क का विकास कर रहा है;

और जबकि केन्द्र सरकार ने इस अधिसूचना के अनुबंध में उल्लिखित नियम और शर्तों के अधीन वाणिज्य तथा उद्योग मंत्रालय के दिनांक 26-7-2006 के पत्र सं. 15/189/2005-आई पी एंड आई डी के अन्तर्गत उक्त औद्योगिक पार्क को अनुमोदित किया है;

इसलिए, अब, उक्त अधिनियम की धारा 80 झ क की उपधारा (4) के खंड (iii) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्र सरकार एतद्द्वारा उक्त खंड (iii) के प्रयोजनार्थ औद्योगिक पार्क के रूप में मैसर्स राजस्थान स्टेट इंडस्ट्रियल डेवलपमेंट एंड इन्वेस्टमेंट कार्पोरेशन लिमिटेड, जयपुर द्वारा विकसित तथा अनुरक्षित एवं प्रचालित किए जा रहे उक्त उपक्रम को अधिसूचित करती है ।

अनुबंध

नियम एवं शर्तें जिन पर भारत सरकार ने मैसर्स राजस्थान स्टेट इन्डस्ट्रियल डेवलपमेंट एंड इन्वेस्टमेंट कार्पोरेशन लिमिटेड, जयपुर द्वारा औद्योगिक पार्क गठित किए जाने हेतु अनुमोदन प्रदान किया गया है ।

1. (i) औद्योगिक उपक्रम का नाम : राजस्थान स्टेट इन्डस्ट्रियल डेवलपमेंट एंड इन्वेस्टमेंट कार्पोरेशन लिमिटेड

(ii) प्रस्तावित स्थान : औद्योगिक क्षेत्र बगरू-छितरोली, जिला-जयपुर, राजस्थान

(iii) औद्योगिक पार्क का क्षेत्रफल : 265.00 एकड़

(iv) प्रस्तावित कार्यकलाप

एन आई सी संहिता के साथ औद्योगिक कार्यकलाप का स्वरूप					
		एन आई सी संहिता			विवरण
क्रम सं.	अनुभाग	प्रभाग	समूह	श्रेणी	
क	2 और 3	–	–	–	विनिर्माण

(v) औद्योगिक उपयोग के लिए निर्धारित आबंटनीय क्षेत्र का प्रतिशत : 96.83%

(vi) वाणिज्यिक उपयोग के लिए निर्धारित भूमि का प्रतिशत	:	03.17%
(vii) औद्योगिक यूनिटों की न्यूनतम संख्या	:	03 यूनिटें
(viii) प्रस्तावित कुल निवेश (राशि रुपए में)	:	15,07,44,000/-
(ix) औद्योगिक उपयोग के लिए निर्मित स्थान पर निवेश (राशि रुपए में)	:	शून्य
(x) अवसंरचनात्मक विकास पर निवेश जिसमें औद्योगिक उपयोग के लिए निर्मित स्थान पर निवेश भी शामिल है (राशि रुपए में)	:	11,36,17,000/-
(xi) औद्योगिक पार्क के आरंभ होने की तिथि	:	31-03-2006

2. किसी औद्योगिक पार्क में अवसंरचना विकास पर न्यूनतम निवेश कुल परियोजना लागत के 50% से कम नहीं होगा । ऐसे औद्योगिक पार्क जो औद्योगिक उपयोग के लिए निर्मित स्थल प्रदान करता है, के मामले में औद्योगिक स्थल के निर्माण कार्य की लागत सहित विकास अवसरंचना पर न्यूनतम खर्च कुल परियोजना लागत के 60% से कम नहीं होगा ।

3. संरचना विकास में सड़क (सम्पर्क सड़क सहित), जलापूर्ति तथा सीवरेज, दूषित जल शोधन सुविधा, टेलिकॉम नेटवर्क, विद्युत उत्पादन एवं वितरण, वातानुकूलन तथा ऐसी अन्य सुविधाएं जो औद्योगिक कार्यकलाप हेतु सामान्य उपयोग के लिए हैं जो वाणिज्यिक दृष्टि से निर्धारणीय एवं प्रयुक्त हैं ।

4. दिनांक 1 अप्रैल, 2002 की का.आ. 354(अ) के पैराग्राफ 6 के उप पैराग्राफ (ख) में निर्दिष्ट तालिका के कालम (2) में उल्लिखित कोई भी एकल इकाई किसी औद्योगिक पार्क के लिए नियत औद्योगिक क्षेत्र का 50% से अधिक हिस्सा धारित नहीं करेगी । इस प्रयोजनार्थ किसी इकाई का आशय एक या एक से अधिक राज्य अथवा केन्द्रीय कर कानून के प्रयोजन के लिए किसी अलग तथा भिन्न कम्पनी से है ।

5. आवश्यक अनुमोदनों जिनमें विदेशी निवेश संवर्धन बोर्ड अथवा भारतीय रिजर्व बैंक अथवा उस समय प्रवृत्त किसी कानून के अन्तर्गत विनिर्दिष्ट किसी प्राधिकरण द्वारा विदेशी प्रत्यक्ष निवेश अथवा अनिवासी भारतीय निवेश के लिए अनुमोदन शामिल है, को प्रवृत्त नीति तथा प्रक्रियाओं के अनुसार अलग से लिया जाएगा ।

6. इस अधिसूचना के पैरा 1 (vii) में विनिर्दिष्ट संख्या में इकाइयों के औद्योगिक पार्क में अवस्थित होने के उपरान्त ही इस अधिनियम के अन्तर्गत कर लाभ प्राप्त हो सकते हैं ।

7. मैसर्स राजस्थान स्टेट इंडस्ट्रियल डेवलपमेंट एंड इनवेस्टमेंट कार्पोरेशन लिमिटेड, जयपुर उस अवधि के दौरान औद्योगिक पार्क का प्रचालन जारी रखेगा जिस अवधि में आयकर अधिनियम, 1961 की धारा 80 झ क की उपधारा (4) के खंड (iii) के अन्तर्गत लाभ लिए जाने हैं ।

8. यदि उक्त औद्योगिक पार्क के आरंभ होने में इस अधिसूचना के पैरा 1 (xi) में निर्दिष्ट तिथि से एक वर्ष से ज्यादा विलम्ब होता है तो आयकर अधिनियम, 1961 की धारा 80 झ क की उपधारा 4 (iii) के अंतर्गत लाभ प्राप्त करने के लिए औद्योगिक पार्क योजना, 2002 के अन्तर्गत नया अनुमोदन प्राप्त करना अपेक्षित होगा ।

9. यह अनुमोदन अवैध रहेगा और मैसर्स राजस्थान स्टेट इंडस्ट्रियल डेवलपमेंट एंड इन्वेस्टमेंट कार्पोरेशन लिमिटेड, जयपुर ऐसी किसी प्रतिक्रिया की अवैधता के लिए स्वयं ही जिम्मेदार होगा, यदि

(i) आवेदन पत्र जिसके आधार पर केन्द्र सरकार द्वारा अनुमोदन प्रदान किया गया है, में गलत सूचना/सूचना अथवा कतिपय तथ्यपरक सूचना न दी गई हो ।

(ii) यह उक्त औद्योगिक पार्क की अवस्थिति हेतु है जिसके लिए अनुमोदन किसी अन्य उपक्रम के नाम में पहले ही प्रदान किया गया है ।

10. यदि मैसर्स राजस्थान स्टेट इंडस्ट्रियल डेवलपमेंट एंड इन्वेस्टमेंट कार्पोरेशन लिमिटेड, जयपुर (अर्थात् अन्तरणकर्ता उपक्रम) औद्योगिक पार्क का प्रचालन और अनुरक्षण किसी दूसरे उपक्रम (अर्थात् अंतरिती उपक्रम) को हस्तांतरित करेगा तो अंतरणकर्ता और अंतरिती उपर्युक्त हस्तांतरण के लिए अंतरणकर्ता और अंतरिती उपक्रम के बीच निष्पादित करार की प्रति के साथ औद्योगिक सहायता सचिवालय, औद्योगिक नीति और संवर्धन विभाग, उद्योग भवन, नई दिल्ली-11 की उद्यमशीलता सहायता यूनिट संयुक्त रूप से सूचित करेंगे ।

11. इस अधिसूचना में उल्लिखित शर्तों के साथ-साथ औद्योगिक पार्क स्कीम, 2002 में शामिल उन शर्तों का अनुपालन उस अवधि के दौरान किया जाना चाहिए जिसके लिए इस स्कीम के अंतर्गत लाभ प्राप्त किए जाने हैं । केन्द्र सरकार उपर्युक्त अनुमोदन को ले सकती है यदि मैसर्स राजस्थान स्टेट इंडस्ट्रियल डेवलपमेंट एंड इन्वेस्टमेंट कार्पोरेशन लिमिटेड, जयपुर औद्योगिक पार्क स्कीम, 2002 में विहित शर्तों अथवा इस अधिसूचना की किसी भी शर्त के अनुपालन में असफल रहता है ।

12. केन्द्र सरकार के अनुमोदन के बिना प्रोजेक्ट प्लान में किया गया कोई भी संशोधन अथवा भविष्य में पता लगाना अथवा किसी ठोस तथ्य का उद्घाटन करने में आवेदक का असफल रहना, औद्योगिक पार्क के अनुमोदन को अवैध बना देना ।

[अधिसूचना सं. 29/2007/फा. सं. 178/138/2006-आ.क.नि.-I]

दीपक गर्ग, अवर सचिव

New Delhi, the 14th February, 2007

(INCOME-TAX)

S.O. 601.—Whereas the Central Government in exercise of the powers conferred by clause (iii) of sub-seciton (4) of Section 80-1A of the Income-tax Act, 1961 (43 of 1961) (hereinafter referred to as the said Act), has framed and notified a scheme for industrial park, by the notifications of the Government of India in the Ministry of Commerce and Industry (Department of Industrial Policy and Promotion) vide number S.O. 193(E), dated the 30th March, 1999, for the period beginning on the 1st day of April, 1997 and ending on the 31st day of March, 2002 and vide number S.O. 354(E) dated the 1st day of April, 2002, for the period beginning on the 1st day of April, 1997 and ending on the 31st day of March, 2006;

And whereas M/s. Rajasthan State Industrial Development & Investment Corporation Limited, having registered office at Udyog Bhawan, Tilak Marg, Jaipur-302005 is developing an Industrial Park at at Industrial Area Bagru–Chhitroli, District–Jaipur, Rajasthan;

And whereas the Central Government has approved the said Industrial Park vide Ministry of Commerce and Industry letter No. 15/189/2005-IP&ID dated 26-7-2006 subject to the terms and conditions mentioned in the annexure to this notification;

Now, therefore, in exercise of the powers conferred by clause (iii) of sub-section (4) of Section 80-1A of the said Act, the Central Government hereby notifies the undertaking, being developed and being maintained and operated by M/s. Rajasthan State Industrial Development & Investment Corporation Limited, Jaipur, as an industrial park for the purposes of the said clause (iii).

ANNEXURE

The terms and conditions on which the approval of the Government of India has been accorded for setting up of an industrial park by M/s. Rajasthan State Industrial Development & Investment Corporation Limited, Jaipur.

1.	(i) Name of the Industrial Undertaking,	:	Rajasthan State Industrial Development & Investment Corporation Limited
	(ii) Proposed location	:	Industrial Area Bagru–Chhitroli, District–Jaipur, Rajasthan
	(iii) Area of Industrial Park	:	265.00 Acres
	(iv) Proposed activities	:	

Nature of Industrial activity with NIC code

	NIC Code				Description
S. No.	Section	Division	Group	Class	
A	2 & 3	—	—	—	Manufacturing

(v)	Percentage of allocable area earmarked for Industrial use	:	96.83%
(vi)	Percentage of allocable area earmarked for commercial use	:	03.17%
(vii)	Minimum number of industrial units	:	03 Units
(viii)	Total investments proposed (Amount in Rupees)	:	15,07,44,000
(ix)	Investment on built up space for Industrial use (Amount in Rupees)	:	Nil
(x)	Investment on Infrastructure Development including investment on built up space for industrial use (Amount in Rupees)	:	11,36,17,000
(xi)	Proposed date of commencement of the Industrial Park	:	31-03-2006

2. The minimum investment on infrastructure development in an Industrial Park shall not be less than 50% of the total project cost. In the case of an Industrial Park which provides built-up space for industrial use, the minimum expenditure on infrastructure development including cost of construction of industrial space, shall not be less than 60% of the total project cost.

3. Infrastructure development shall include, roads (including approach roads), water supply and sewerage, common effluent treatment facility, telecom network, generation and distribution of power, air-conditioning and such other facilities as are for common use for industrial activity which are identifiable and are provided on commercial terms.

4. No single unit referred to in column (2) of the Table given in sub-paragraph (b) of paragraph 6 of S.O. 354(E) dated the 1st April, 2002, shall occupy more than fifty percent of the allocable industrial area of an Industrial Park. For this purpose a unit means any separate and distinct entity for the purpose of one and more state or Central tax laws.

5. Necessary approvals, including that for foreign direct investment or non-resident Indian investment by the Foreign Investment Promotion Board or Reserve Bank of India or any authority specified under any law for the time being in force, shall be taken separately as per the policy and procedures in force.

6. The tax benefits under the Act can be availed of only after the number of units indicated in Para 1 (vii) of this Notification, are located in the Industrial Park.

7. M/s. Rajasthan State Industrial Development & Investment Corporation Limited, Jaipur, shall continue to operate the Industrial Park during the period in which the benefits under clause (iii) of sub-section (4) of section 80-IA of the Income-tax Act, 1961 are to be availed.

8. In case the commencement of the Industrial Park is delayed by more than one year from the date indicated in Para 1 (xi) of this notification, fresh approval will be required under the Industrial Park Scheme, 2002, for availing benefits under sub-section 4 (iii) of Section 80-IA of the Income Tax Act, 1961.

9. The approval will be invalid and M/s. Rajasthan State Industrial Development & Investment Corporation Limited, Jaipur, shall be solely responsible for any repercussions of such invalidity, if

(i) the application on the basis of which the approval is accorded by the Central Government contains wrong information/misinformation or some material information has not been provided in it.

(ii) it is for the location of the industrial park for which approval has already been accorded in the name of another undertaking.

10. In case M/s Rajasthan State Industrial Development & Investment Corporation Limited, Jaipur, transfers the operation and maintenance of the industrial park (i.e., transferor undertaking) to another undertaking (i.e., the transferee undertaking), the transferor and transferee shall jointly intimate to the Entrepreneurial Assistance Unit of the Secretariat for Industrial Assistantce, Department of Industrial Policy and Promotion, Udyog Bhawan, New Delhi-11 along with a copy of the agreement executed between the transferor and transferee undertaking for the aforesaid transfer.

11. The conditions mentioned in this notification as well as those included in the Industrial Park Scheme, 2002 should be adhered to during the period for which benefits under this scheme are to be availed. The Central Government may withdraw the above approval in case M/s. Rajasthan State Industrial Development & Investment Corporation Limited, Jaipur, fails to comply with any of the conditions.

12. Any amendment of the project plan without the approval of the Central Government or detection in future, or failure on the part of the applicant to disclose any material fact, will invalidate the approval of the industrial park.

[Notification No. 29/2007/F. No. 175/138/2006-ITA-I]

DEEPAK GARG, Under Secy.

नई दिल्ली, 14 फरवरी, 2007

(आयकर)

का.आ. 602.—जबकि आयकर अधिनियम, 1961 (1961 का 43) (यहां आगे उक्त अधिनियम कहा गया है) की धारा 80 झ क की उपधारा (4) के खंड (iii) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्र सरकार ने 1 अप्रैल, 1997 से शुरू होकर तथा 31 मार्च, 2002 को समाप्त होने वाली अवधि के लिये संख्या का.आ. 193(अ) दिनांक 30 मार्च, 1999 के जरिए तथा 1 अप्रैल, 1997 से शुरू होकर तथा 31 मार्च, 2006 को समाप्त अवधि के लिए संख्या का.आ. 354 (अ) के जरिए भारत सरकार, वाणिज्य और उद्योग मंत्रालय (औद्योगिक नीति और संवर्धन विभाग) की अधिसूचनाओं द्वारा औद्योगिक पार्क की योजना निर्मित और अधिसूचित की है;

और जबकि मैसर्स राजस्थान स्टेट इंडस्ट्रियल डेवलपमेंट एंड इन्वेस्टमेंट कार्पोरेशन लिमिटेड, जिसका पंजीकृत कार्यालय उद्योग भवन, तिलक मार्ग, जयपुर-302005 में स्थित है, रीको लिमिटेड, 1/ए वी के आई ए (एक्स.), ग्राम-बढ़रना, तहसील-आमेर, जयपुर-302 005 में एक औद्योगिक पार्क का विकास कर रहा है;

और जबकि केन्द्र सरकार ने इस अधिसूचना के अनुबंध में उल्लिखित नियम और शर्तों के अधीन वाणिज्य तथा उद्योग मंत्रालय के दिनांक 4-5-2006 के पत्र सं. 15/92/2005-आई पी एंड आई डी के अन्तर्गत उक्त औद्योगिक पार्क अनुमोदित किया है;

इसलिए, अब, उक्त अधिनियम की धारा 80 झ क की उपधारा (4) के खंड (iii) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्र सरकार एतद्द्वारा उक्त खंड (iii) के प्रयोजनार्थ औद्योगिक पार्क के रूप में मैसर्स राजस्थान स्टेट इंडस्ट्रियल डेवलपमेंट एंड इन्वेस्टमेंट कार्पोरेशन लिमिटेड, जयपुर द्वारा विकसित तथा अनुरक्षित एवं प्रचालित किए जा रहे उक्त उपक्रम को अधिसूचित करती है ।

अनुबंध

नियम एवं शर्तें जिन पर भारत सरकार ने मैसर्स राजस्थान स्टेट इंडस्ट्रियल डेवलपमेंट एंड इन्वेस्टमेंट कार्पोरेशन लिमिटेड, जयपुर द्वारा औद्योगिक पार्क गठित किए जाने हेतु अनुमोदन प्रदान किया गया है ।

1. (i) औद्योगिक उपक्रम का नाम : राजस्थान स्टेट इंडस्ट्रियल डेवलपमेंट एंड इन्वेस्टमेंट कार्पोरेशन लिमिटेड

(ii) प्रस्तावित स्थान : रीको लिमिटेड, 1/ए वी के आई ए (एक्स.), ग्राम-बढ़रना, तहसील-आमेर, जयपुर-302 005

(iii) औद्योगिक पार्क का क्षेत्रफल : 73.34 एकड़

(iv) प्रस्तावित कार्यकलाप

एन आई सी संहिता के साथ औद्योगिक कार्यकलाप का स्वरूप

	एन आई सी संहिता			विवरण
क्रम सं. अनुभाग	प्रभाग	समूह	श्रेणी	
क 2 और 3	–	–	–	विनिर्माण

(v) औद्योगिक उपयोग के लिए निर्धारित आबंटनीय क्षेत्र का प्रतिशत : 92.72%

(vi) वाणिज्य उपयोग के लिए निर्धारित भूमि का प्रतिशत : 02.28%

(vii) औद्योगिक यूनिटों की न्यूनतम संख्या : 191 यूनिटें

(viii) प्रस्तावित कुल निवेश (राशि रुपए में) : 11,69,26,000

(ix) औद्योगिक उपयोग के लिए निर्मित स्थान पर निवेश (राशि रुपए में) : शून्य

(x) अवसंरचनात्मक विकास पर निवेश जिसमें औद्योगिक उपयोग के लिए निर्मित स्थान पर निवेश भी शामिल है (राशि रुपए में) : 7,82,14,000

(xi) औद्योगिक पार्क के आरंभ होने की प्रस्तावित तिथि : 31-03-2006

2. किसी औद्योगिक पार्क में अवसंरचना विकास पर न्यूनतम निवेश कुल परियोजना लागत के 50% से कम नहीं होगा । ऐसे औद्योगिक पार्क जो औद्योगिक उपयोग के लिए निर्मित स्थल प्रदान करता है, के मामले में औद्योगिक स्थल के निर्माण कार्य की लागत सहित विकास अवसरंचना पर न्यूनतम खर्च कुल परियोजना लागत के 60% से कम नहीं होगा ।

3. संरचना विकास में सड़क (सम्पर्क सड़क सहित), जलापूर्ति तथा सीवरेज, दूषित जल शोधन सुविधा, टेलिकॉम नेटवर्क, विद्युत उत्पादन एवं वितरण, वातानुकूलन तथा ऐसी अन्य सुविधाएं जो औद्योगिक कार्यकलाप हेतु सामान्य उपयोग के लिए हैं जो वाणिज्यिक दृष्टि से निर्धारणीय एवं प्रयुक्त हैं ।

4. दिनांक 1 अप्रैल, 2002 की का.आ. 354(अ) के पैराग्राफ 6 के उप पैराग्राफ (ख) में निर्दिष्ट तालिका के कालम (2) में उल्लिखित कोई एकल इकाई किसी औद्योगिक पार्क के लिए नियत औद्योगिक क्षेत्र का 50% से अधिक हिस्सा धारित नहीं करेगी । इस प्रयोजनार्थ किसी इकाई का आशय एक या एक से अधिक राज्य अथवा केन्द्रीय कर कानून के प्रयोजन के लिए किसी अलग तथा भिन्न कम्पनी से है ।

5. आवश्यक अनुमोदनों, जिनमें विदेशी निवेश संवर्धन बोर्ड अथवा भारतीय रिज़र्व बैंक अथवा उस समय प्रवृत्त किसी कानून के अन्तर्गत विनिर्दिष्ट किसी प्राधिकरण द्वारा विदेशी प्रत्यक्ष निवेश अथवा अनिवासी भारतीय निवेश के लिए अनुमोदन शामिल है, को प्रवृत्त नीति तथा प्रक्रियाओं के अनुसार अलग से लिया जाएगा ।

6. इस अधिसूचना के पैरा 1 (vii) में विनिर्दिष्ट संख्या में इकाइयों के औद्योगिक पार्क में अवस्थित होने के उपरान्त ही इस अधिनियम के अन्तर्गत कर लाभ प्राप्त हो सकते हैं ।

7. मैसर्स राजस्थान स्टेट इंडस्ट्रियल डेवलपमेंट एंड इन्वेस्टमेंट कार्पोरेशन लिमिटेड, जयपुर उस अवधि के दौरान औद्योगिक पार्क का प्रचालन जारी रखेगा जिस अवधि में आयकर अधिनियम, 1961 की धारा 80 झ क की उपधारा (4) के खंड (iii) के अन्तर्गत लाभ लिए जाने हैं ।

8. यदि उक्त औद्योगिक पार्क के आरंभ होने में इस अधिसूचना के पैरा 1 (xi) में निर्दिष्ट तिथि से एक वर्ष से ज्यादा विलम्ब होता है तो आयकर अधिनियम, 1961 की धारा 80 झ क की उपधारा 4 (iii) के अंतर्गत लाभ प्राप्त करने के लिए औद्योगिक पार्क योजना, 2002 के अन्तर्गत नया अनुमोदन प्राप्त करना अपेक्षित होगा ।

9. यह अनुमोदन अवैध रहेगा और मैसर्स राजस्थान स्टेट इंडस्ट्रियल डेवलपमेंट एंड इन्वेस्टमेंट कार्पोरेशन लिमिटेड, जयपुर ऐसी किसी प्रतिक्रिया की अवैधता के लिए स्वयं ही जिम्मेदार होगा, यदि

(i) आवेदन पत्र जिसके आधार पर केन्द्र सरकार द्वारा अनुमोदन प्रदान किया गया है, में गलत सूचना/सूचना अथवा कतिपय तथ्यपरक सूचना न दी गई हो ।

(ii) यह उक्त औद्योगिक पार्क की अवस्थिति हेतु है जिसके लिए अनुमोदन किसी अन्य उपक्रम के नाम में पहले ही प्रदान किया गया है ।

10. यदि मैसर्स राजस्थान स्टेट इंडस्ट्रियल डेवलपमेंट एंड इन्वेस्टमेंट कार्पोरेशन लिमिटेड, जयपुर (अर्थात् अन्तरणकर्ता उपक्रम) औद्योगिक पार्क का प्रचालन और अनुरक्षण किसी दूसरे उपक्रम (अर्थात् अंतरिती उपक्रम) को हस्तांतरित करेगा तो अंतरणकर्ता और अंतरिती उपर्युक्त हस्तांतरण के लिए अंतरणकर्ता और अंतरिती उपक्रम के बीच निष्पादित करार की प्रति के साथ औद्योगिक सहायता सचिवालय, औद्योगिक नीति और संवर्धन विभाग, उद्योग भवन, नई दिल्ली-11 की उद्यमशीलता सहायता यूनिट संयुक्त रूप से सूचित करेंगे ।

11. इस अधिसूचना में उल्लिखित शर्तों के साथ-साथ औद्योगिक पार्क स्कीम, 2002 में शामिल उन् शर्तों का अनुपालन उस अवधि के दौरान किया जाना चाहिए जिसके लिए इस स्कीम के अंतर्गत लाभ प्राप्त किए जाने हैं । केन्द्र सरकार उपर्युक्त अनुमोदन को ले सकती है मैसर्स राजस्थान स्टेट इंडस्ट्रियल डेवलपमेंट एंड इन्वेस्टमेंट कार्पोरेशन लिमिटेड, जयपुर औद्योगिक पार्क स्कीम, 2002 में विहित शर्तों अथवा इस अधिसूचना की किसी भी शर्त के अनुपालन में असफल रहता है ।

12. केन्द्र सरकार के अनुमोदन के बिना प्रोजेक्ट प्लान में किया गया कोई भी संशोधन अथवा भविष्य में पता लगना अथवा किसी ठोस तथ्य का उद्घाटन करने में आवेदक का असफल रहना, औद्योगिक पार्क के अनुमोदन को अवैध बना देना ।

[अधिसूचना सं. 30/2007/फा. सं. 178/111/2006-आ.क.नि.-I]

दीपक गर्ग, अवर सचिव

New Delhi, the 14th February, 2007

(INCOME-TAX)

S.O. 602.—Whereas the Central Government in exercise of the powers conferred by clause (iii) of sub-seciton (4) of Section 80-IA of the Income-tax Act, 1961 (43 of 1961) (hereinafter referred to as the said Act), has framed and notified a scheme for industrial park, by the notifications of the Government of India in the Ministry of Commerce and Industry (Department of Industrial Policy and Promotion) vide number S.O. 193(E), dated the 30th March, 1999, for the period beginning on the 1st day of April, 1997 and ending on the 31st day of March, 2002 and vide number S.O. 354(E) dated the 1st day of April, 2002, for the period beginning on the 1st day of April, 1997 and ending on the 31st day of March, 2006;

And whereas M/s. Rajasthan State Industrial Development & Investment Corporation Limited, having registered office at Udyog Bhawan, Tilak Marg, Jaipur-302005 is developing an Industrial Park at RIICO Limited, 1/A VKIA (Ext.), Village-Badharna, Tehsil-Amer, Jaipur-302 005;

And whereas the Central Government has approved the said Industrial Park vide Ministry of Commerce and Industry letter No. 15/92/2005-IP&ID dated 4-5-2006 subject to the terms and conditions mentioned in the annexure to this notification;

Now, therefore, in exercise of the powers conferred by clause (iii) of sub-section (4) of section 80-1A of the said Act, the Central Government hereby notifies the undertaking, being developed and being maintained and operated by M/s. Rajasthan State Industrial Development & Investment Corporation Limited, Jaipur, as an industrial park for the purposes of the said clause (iii).

ANNEXURE

The terms and conditions on which the approval of the Government of India has been accorded for setting up of an industrial park by M/s. Rajasthan State Industrial Development & Investment Corporation Limited, Jaipur.

1.	(i) Name of the Industrial Undertaking	:	Rajasthan State Industrial Development & Investment Corporation Limited
	(ii) Proposed location	:	RIICO Limited, 1/A VKIA (Ext.), Village–Badharna, Tehsil–Amer, Jaipur–302 005
	(iii) Area of Industrial Park	:	73.34 Acres

(iv) Proposed activities

		Nature of Industrial activity with NIC Code			
		NIC Code			Description
S. No.	Section	Division	Group	Class	
A	2 & 3	—	—	—	Manufacturing

(v)	Percentage of allocable area earmarked for Industrial use	:	92.72%
(vi)	Percentage of allocable area earmarked for commercial use	:	02.28%
(vii)	Minimum number of industrial units	:	191 Units
(viii)	Total investments proposed (Amount in Rupees)	:	11,69,26,000
(ix)	Investment on built up space for Industrial use (Amount in Rupees)	:	Nil
(x)	Investment on Infrastructure Development including investment on built up space for industrial use (Amount in Rupees)	:	7,82,14,000
(xi)	Proposed date of commencement of the Industrial Park	:	31-03-2006

2. The minimum investment on infrastructure development in an Industrial Park shall not be less than 50% of the total project cost. In the case of an Industrial Park which provides built-up space for industrial use, the minimum expenditure on infrastructure development including cost of construction of industrial space, shall not be less than 60% of the total project cost.

3. Infrastructure development shall include, roads (including approach roads), water supply and sewerage, common effluent treatment facility, telecom network, generation and distribution of power, air-conditioning and such other facilities as are for common use for industrial activity which are identifiable and are provided on commercial terms.

4. No single unit referred to in column (2) of the Table given in sub-paragraph (b) of paragraph 6 of S.O. 354(E) dated the 1st April, 2002, shall occupy more than fifty per cent of the allocable industrial area of an Industrial Park. For this purpose a unit means any separate and distinct entity for the purpose of one and more state or Central tax laws.

5. Necessary approvals, including that for foreign direct investment or non-resident Indian investment by the Foreign Investment Promotion Board or Reserve Bank of India or any authority specified under any law for the time being in force, shall be taken separately as per the policy and procedures in force.

6. The tax benefits under the Act can be availed of only after the number of units indicated in Para 1 (vii) of this Notification, are located in the Industrial Park.

7. M/s. Rajasthan State Industrial Development & Investment Corporation Limited, Jaipur, shall continue to operate the Industrial Park during the period in which the benefits under clause (iii) of sub-section (4) of section 80-IA of the Income-tax Act, 1961 are to be availed.

8. In case the commencement of the Industrial Park is delayed by more than one year from the date indicated in Para 1 (xi) of this notification, fresh approval will be required under the Industrial Park Scheme, 2002, for availing benefits under sub-section 4 (iii) of Section 80-IA of the Income Tax Act, 1961.

9. The approval will be invalid and M/s. Rajasthan State Industrial Development & Investment Corporation Limited, Jaipur, shall be solely responsible for any repercussions of such invalidity, if

(i) the application on the basis of which the approval is accorded by the Central Government contains wrong information/misinformation or some material information has not been provided in it.

(ii) it is for the location of the industrial park for which approval has already been accorded in the name of another undertaking.

10. In case M/s. Rajasthan State Industrial Development & Investment Corporation Limited, Jaipur, transfers the operation and maintenance of the industrial park (i.e., transferor undertaking) to another undertaking (i.e., the transferee undertaking), the transferor and transferee shall jointly intimate to the Enterpreneurial Assistance Unit of the Secretariat for Industrial Assistance, Department of Industrial Policy and Promotion, Udyog Bhawan, New Delhi-11 along with a copy of the agreement executed between the transferor and transferee undertaking for the aforesaid transfer.

11. The conditions mentioned in this notification as well as those included in the Industrial Park Scheme, 2002 should be adhered to during the period for which benefits under this scheme are to be availed. The Central Government may withdraw the above approval in case M/s. Rajasthan State Industrial Development & Investment Corporation Limited, Jaipur, fails to comply with any of the conditions.

12. Any amendment of the project plan without the approval of the Central Government or detection in future, or failure on the part of the applicant to disclose any material fact, will invalidate the approval of the industrial park.

[Notification No. 30/2007/F. No. 178/111/2006-ITA-I]
DEEPAK GARG, Under Secy.

नई दिल्ली, 15 फरवरी, 2007

(आयकर)

का.आ. 603.—जबकि आयकर अधिनियम, 1961 (1961 का 43) (यहां आगे उक्त अधिनियम कहा गया है) की धारा 80 झ क की उपधारा (4) के खंड (iii) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्र सरकार ने 1 अप्रैल, 1997 से शुरू होकर तथा 31 मार्च, 2002 को समाप्त होने वाली अवधि के लिये संख्या का.आ. 193(अ) दिनांक 30 मार्च, 1999 के जरिए तथा 1 अप्रैल, 1997 से शुरू होकर तथा 31 मार्च, 2006 को समाप्त अवधि के लिए संख्या का.आ. 354 (अ) के जरिए भारत सरकार, वाणिज्य और उद्योग मंत्रालय (औद्योगिक नीति और संवर्धन विभाग) की अधिसूचनाओं द्वारा औद्योगिक पार्क की योजना निर्मित और अधिसूचित की है;

और जबकि मैसर्स राजस्थान स्टेट इंडस्ट्रियल डेवलपमेंट एंड इन्वेस्टमेंट कार्पोरेशन लिमिटेड, जिसका पंजीकृत कार्यालय उद्योग भवन, तिलक मार्ग, जयपुर-302005 में स्थित है, औद्योगिक क्षेत्र छोपांकी, (भिवाड़ी), जिला-अलवर, राजस्थान-301 019 में एक औद्योगिक पार्क का विकास कर रहा है ;

और जबकि केन्द्र सरकार ने इस अधिसूचना के अनुबंध में उल्लिखित नियम और शर्तों के अधीन वाणिज्य तथा उद्योग मंत्रालय के दिनांक 8-8-2006 के पत्र सं. 15/133/2005-आई पी एंड आई डी के अन्तर्गत उक्त औद्योगिक पार्क को अनुमोदित किया है;

इसलिए, अब, उक्त अधिनियम की धारा 80 झ क की उपधारा (4) के खंड (iii) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्र सरकार एतद्द्वारा उक्त खंड (iii) के प्रयोजनार्थ औद्योगिक पार्क के रूप में मैसर्स राजस्थान स्टेट इंडस्ट्रियल डेवलपमेंट एंड इन्वेस्टमेंट कारपोरेशन लिमिटेड, जयपुर द्वारा विकसित तथा अनुरक्षित एवं प्रचालित किए जा रहे उक्त उपक्रम को अधिसूचित करती है ।

अनुबंध

नियम एवं शर्तें जिन पर भारत सरकार ने मैसर्स राजस्थान स्टेट इंडस्ट्रियल डेवलपमेंट एंड इनवेस्टमेंट कार्पोरेशन लिमिटेड, जयपुर द्वारा औद्योगिक पार्क गठित किए जाने हेतु अनुमोदन प्रदान किया गया है ।

1.	(i) औद्योगिक उपक्रम का नाम	:	राजस्थान स्टेट इंडस्ट्रियल डेवलपमेंट एंड इनवेस्टमेंट कार्पोरेशन लिमिटेड
	(ii) प्रस्तावित स्थान	:	औद्योगिक क्षेत्र छोपांकी, (भिवाड़ी), जिला-अलवर, राजस्थान-301 019
	(iii) औद्योगिक पार्क का क्षेत्रफल	:	820.00 एकड़
	(iv) प्रस्तावित कार्यकलाप		

एन आई सी संहिता के साथ औद्योगिक कार्यकलाप का स्वरूप

	एन आई सी संहिता				विवरण
क्रम सं.	अनुभाग	प्रभाग	समूह	श्रेणी	
क	2 और 3	–	–	–	विनिर्माण

(v)	औद्योगिक उपयोग के लिए निर्धारित आबंटनीय क्षेत्र का प्रतिशत	:	91.15%
(vi)	वाणिज्य उपयोग के लिए निर्धारित भूमि का प्रतिशत	:	03.37%
(vii)	औद्योगिक यूनिटों की न्यूनतम संख्या	:	853 यूनिटें
(viii)	प्रस्तावित कुल निवेश (राशि रुपए में)	:	67,30,00,000
(ix)	औद्योगिक उपयोग के लिए निर्मित स्थान पर निवेश (राशि रुपए में)	:	शून्य
(x)	अवसंरचनात्मक विकास पर निवेश जिसमें औद्योगिक उपयोग के लिए निर्मित स्थान पर निवेश भी शामिल है (राशि रुपए में)	:	46,23,39,000
(xi)	औद्योगिक पार्क के आरंभ होने की प्रस्तावित तिथि	:	31-03-2006

2. किसी औद्योगिक पार्क में अवसंरचना विकास पर न्यूनतम निवेश कुल परियोजना लागत के 50% से कम नहीं होगा । ऐसे औद्योगिक पार्क जो औद्योगिक उपयोग के लिए निर्मित स्थल प्रदान करता है, के मामले में औद्योगिक स्थल के निर्माण कार्य की लागत सहित विकास अवसरंचना पर न्यूनतम खर्च कुल परियोजना लागत के 60% से कम नहीं होगा ।

3. संरचना विकास में सड़क (सम्पर्क सड़क सहित), जलापूर्ति तथा सीवरेज, दूषित जल शोधन सुविधा, टेलिकॉम नेटवर्क, विद्युत उत्पादन एवं वितरण, वातानुकूलन तथा ऐसी अन्य सुविधाएं जो औद्योगिक कार्यकलाप हेतु सामान्य उपयोग के लिए हैं जो वाणिज्यिक दृष्टि से निर्धारणीय एवं प्रयुक्त हैं ।

4. दिनांक 1 अप्रैल, 2002 की का.आ. 354(अ) के पैराग्राफ 6 के उप पैराग्राफ (ख) में निर्दिष्ट तालिका के कालम (2) में उल्लिखित कोई भी एकल इकाई किसी औद्योगिक पार्क के लिए नियत औद्योगिक क्षेत्र का 50% से अधिक हिस्सा धारित नहीं करेगी । इस प्रयोजनार्थ किसी इकाई का आशय एक या एक से अधिक राज्य अथवा केन्द्रीय कर कानून के प्रयोजन के लिए किसी अलग तथा भिन्न कम्पनी से है ।

5. आवश्यक अनुमोदनों, जिनमें विदेशी निवेश संवर्धन बोर्ड अथवा भारतीय रिजर्व बैंक अथवा उस समय प्रवृत्त किसी कानून के अन्तर्गत विनिर्दिष्ट किसी प्राधिकरण द्वारा विदेशी प्रत्यक्ष निवेश अथवा अनिवासी भारतीय निवेश के लिए अनुमोदन शामिल है, को प्रवृत्त नीति तथा प्रक्रियाओं के अनुसार अलग से लिया जाएगा ।

6. इस अधिसूचना के पैरा 1 (vii) में विनिर्दिष्ट संख्या में इकाइयों के औद्योगिक पार्क में अवस्थित होने के उपरान्त ही इस अधिनियम के अन्तर्गत कर लाभ प्राप्त हो सकते हैं ।

7. मैसर्स राजस्थान स्टेट इंडस्ट्रियल डेवलपमेंट एडं इनवेस्टमेंट कार्पोरेशन लिमिटेड, जयपुर उस अवधि के दौरान औद्योगिक पार्क का प्रचालन जारी रखेगा जिस अवधि में आयकर अधिनियम, 1961 की धारा 80 झ क की उपधारा (4) के खंड (iii) के अन्तर्गत लाभ लिए जाने हैं ।

8. यदि उक्त औद्योगिक पार्क के आरंभ होने में इस अधिसूचना के पैरा 1 (xi) में निर्दिष्ट तिथि से एक वर्ष से ज्यादा विलम्ब होता है तो आयकर अधिनियम, 1961 की धारा 80 झ क की उपधारा 4 (iii) के अंतर्गत लाभ प्राप्त करने के लिए औद्योगिक पार्क योजना, 2002 के अन्तर्गत नया अनुमोदन प्राप्त करना अपेक्षित होगा ।

9. यह अनुमोदन अवैध रहेगा और मैसर्स राजस्थान स्टेट इंडस्ट्रियल डेवलपमेंट एंड इन्वेस्टमेंट कार्पोरेशन लिमिटेड, जयपुर ऐसी अवैधता की किसी प्रतिक्रिया के लिए स्वयं ही जिम्मेदार होगा, यदि

(i) आवेदन पत्र जिसके आधार पर केन्द्र सरकार द्वारा अनुमोदन प्रदान किया गया है, में गलत सूचना/सूचना अथवा कतिपय तथ्यपरक सूचना न दी गई हो ।

(ii) यह उक्त औद्योगिक पार्क की अवस्थिति हेतु है जिसके लिए अनुमोदन किसी अन्य उपक्रम के नाम में पहले ही प्रदान किया गया है ।

10. यदि मैसर्स राजस्थान स्टेट इंडस्ट्रियल डेवलपमेंट एडं इन्वेस्टमेंट कार्पोरेशन लिमिटेड, जयपुर (अर्थात् अन्तरणकर्ता उपक्रम) औद्योगिक पार्क का प्रचालन और अनुरक्षण किसी दूसरे उपक्रम (अर्थात् अंतरिती उपक्रम) को हस्तांतरित करेगा तो अंतरणकर्ता और अंतरिती उपर्युक्त हस्तांतरण के लिए अंतरणकर्ता और अंतरिती उपक्रम के बीच निष्पादित करार की प्रति के साथ औद्योगिक सहायता सचिवालय, औद्योगिक नीति और संवर्धन विभाग, उद्योग भवन, नई दिल्ली-11 की उद्यमशीलता सहायता यूनिट संयुक्त रूप से सूचित करेंगे ।

11. इस अधिसूचना में उल्लिखित शर्तों के साथ-साथ औद्योगिक पार्क स्कीम, 2002 में शामिल उन शर्तों का अनुपालन उस अवधि के दौरान किया जाना चाहिए जिसके लिए इस स्कीम के अंतर्गत लाभ प्राप्त किए जाने हैं । केन्द्र सरकार उपर्युक्त अनुमोदन को वापस ले सकती है यदि मैसर्स राजस्थान स्टेट इंडस्ट्रियल डेवलपमेंट एंड इन्वेस्टमेंट कार्पोरेशन लिमिटेड, जयपुर औद्योगिक पार्क स्कीम, 2002 में विहित शर्तों अथवा इस अधिसूचना की किसी भी शर्त के अनुपालन में असफल रहता है ।

12. केन्द्र सरकार के अनुमोदन के बिना प्रोजेक्ट प्लान में किया गया कोई भी संशोधन अथवा भविष्य में पता लगना अथवा किसी ठोस तथ्य का उद्घाटन करने में आवेदक का असफल रहना, औद्योगिक पार्क के अनुमोदन को अवैध बना देना ।

[अधिसूचना सं. 53/2007/फा. सं. 178/114/2006-आ.क.नि.-I]

दीपक गर्ग, अवर सचिव

New Delhi, the 15th February, 2007

(INCOME-TAX)

S.O. 603.—Whereas the Central Government in exercise of the powers conferred by clause (iii) of sub-seciton (4) of Section 80-IA of the Income-tax Act, 1961 (43 of 1961) (hereinafter referred to as the said Act), has framed and notified a scheme for industrial park, by the notifications of the Government of India in the Ministry of Commerce and Industry (Department of Industrial Policy and Promotion) vide number S.O. 193(E), dated the 30th March, 1999, for the period beginning on the 1st day of April, 1997 and ending on the 31st day of March, 2002 and vide number S.O. 354(E) dated the 1st day of April, 2002, for the period beginning on the 1st day of April, 1997 and ending on the 31st day of March, 2006;

And whereas M/s. Rajasthan State Industrial Development & Investment Corporation Limited, having registered office at Udyog Bhawan, Tilak Marg, Jaipur-302005 is developing an Industrial Park at Industrial Area Chopanki, (Bhiwadi), District-Alwar, Rajasthan-301019;

And whereas the Central Government has approved the said Industrial Park *vide* Ministry of Commerce and Industry letter No. 15/133/2005-IP & ID dated 8-8-2006 subject to the terms and conditions mentioned in the annexure to this Notification;

Now, therefore, in exercise of the powers conferred by clause (iii) of sub-section (4) of Section 80-IA of the said Act, the Central Government hereby notifies the undertaking, being developed and being maintained and operated by M/s. Rajasthan State Industrial Development & Investment Corporation Limited, Jaipur, as an industrial park for the purposes of the said clause (iii).

ANNEXURE

The terms and conditions on which the approval of the Government of India has been accorded for setting up of an industrial park by M/s. Rajasthan State Industrial Development & Investment Corporation Limited, Jaipur:

1. (i) Name of the Industrial Undertaking : Rajasthan State Industrial Development & Investment Corporation Limited

(ii) Proposed location : Industrial Area Chopanki, (Bhiwadi), District–Alwar, Rajasthan–301019

(iii) Area of Industrial Park : 820.00 Acres

(iv) Proposed activities :

Nature of Industrial activity with NIC code

	NIC Code				Description
S. No.	Section	Division	Group	Class	
A	2 & 3	—	—	—	Manufacturing

(v) Percentage of allocable area earmarked for Industrial use : 91.15%

(vi) Percentage of allocable area earmarked for commercial use : 3.37%

(vii) Minimum number of industrial units : 853 Units

(viii) Total investments proposed (Amount in Rupees) : 67,30,00,000/-

(ix) Investment on built up space for Industrial use (Amount in Rupees) : Nil

(x) Investment on Infrastructure Development including investment on built up space for industrial use (Amount in Rupees) : 46,23,39,000/-

(xi) Proposed date of commencement of the Industrial Park : 31-3-2006

2. The minimum investment on infrastructure development in an Industrial Park shall not be less than 50% of the total project cost. In the case of an Industrial Park which provides built-up space for industrial use, the minimum expenditure on infrastructure development including cost of construction of industrial space, shall not be less than 60% of the total project cost.

3. Infrastructure development shall include, roads (including approach roads), water supply and sewerage, common effluent treatment facility, telecom network, generation and distribution of power, air-conditioning and such other facilities as are for common use for industrial activity which are identifiable and are provided on commercial terms.

4. No single unit referred to in column (2) of the Table given in sub-paragraph (b) of paragraph 6 of S.O. 354(E) dated the 1st April, 2002, shall occupy more than fifty per cent of the allocable industrial area of an Industrial Park. For this purpose a unit means any separate and district entity for the purpose of one and more state or Central tax laws.

5. Necessary approvals, including that for foreign direct investment or non-resident Indian investment by the Foreign Investment Promotion Board or Reserve Bank of India or any authority specified under any law for the time being in force, shall be taken separately as per the policy and procedures in force.

6. The tax benefits under the Act can be availed of only after the number of units indicated in Para 1 (vii) of this Notification, are located in the Industrial Park.

7. M/s. Rajasthan State Industrial Development & Investment Corporation Limited, Jaipur, shall continue to operate the Industrial Park during the period in which the benefits under clause (iii) of sub-section (4) of Section 80IA of the Income-tax Act, 1961 are to be availed.

8. In case the commencement of the Industrial Park is delayed by more than one year from the date indicated in Para 1 (xi) of this Notification, fresh approval will be required under the Industrial Park Scheme, 2002, for availing benefits under sub-section 4 (iii) of Section 80IA of the Income Tax Act, 1961.

9. The approval will be invalid and M/s. Rajasthan State Industrial Development & Investment Corporation Limited, Jaipur, shall be solely responsible for any repercussions of such invalidity, if :

(i) the application on the basis of which the approval is accorded by the Central Government contains wrong information/misinformation or some material information has not been provided in it.

(ii) it is for the location of the industrial park for which approval has already been accorded in the name of another undertaking.

10. In case M/s. Rajasthan State Industrial Development & Investment Corporation Limited, Jaipur, transfers the operation and maintenance of the industrial park (i.e., transferor undertaking) to another undertaking (i.e., the transferee undertaking), the transferor and transferee shall jointly intimate to the Entrepreneurial Assistance Unit of the Secretariat for Industrial Assistance, Department of Industrial Policy and Promotion, Udyog Bhawan, New Delhi-11 along with a copy of the agreement executed between the transferor and transferee undertaking for the aforesaid transfer.

11. The conditions mentioned in this Notification as well as those included in the Industrial Park Scheme, 2002 should be adhered to during the period for which benefits under this scheme are to be availed. The Central Government may withdraw the above approval in case M/s. Rajasthan State Industrial Development & Investment Corporation Limited, Jaipur, fails to comply with any of the conditions.

12. Any amendment of the project plan without the approval of the Central Government or detection in future, or failure on the part of the applicant to disclose any material fact, will invalidate the approval of the industrial park.

[Notification No. 53/2007/F. No. 178/114/2006-ITA-I]

DEEPAK GARG, Under Secy.

नई दिल्ली, 15 फरवरी, 2007

(आयकर)

का.आ. 604.—जबकि आयकर अधिनियम, 1961 (1961 का 43) (यहां आगे उक्त अधिनियम कहा गया है) की धारा 80 झ क की उप-धारा (4) के खंड (iii) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्र सरकार ने 1 अप्रैल, 1997 से शुरू होकर तथा 31 मार्च, 2002 को समाप्त होने वाली अवधि के लिये संख्या का.आ. 193(अ) दिनांक 30 मार्च, 1999 के जरिए तथा 1 अप्रैल, 1997 से शुरू होकर तथा 31 मार्च, 2006 को समाप्त अवधि के लिए संख्या का.आ. 354 (अ) दिनांक 1 अप्रैल, 2002 के जरिए भारत सरकार, वाणिज्य और उद्योग मंत्रालय (औद्योगिक नीति और संवर्धन विभाग) की अधिसूचनाओं द्वारा औद्योगिक पार्क की योजना निर्मित और अधिसूचित की है;

और जबकि मैसर्स राजस्थान स्टेट इंडस्ट्रियल डेवलपमेंट एंड इन्वेस्टमेंट कार्पोरेशन लिमिटेड, जिसका पंजीकृत कार्यालय उद्योग भवन, तिलक मार्ग, जयपुर-302005 में है, सोटानाला, जिला-अलवर, राजस्थान-301706 में एक औद्योगिक पार्क का विकास कर रहा है;

और जबकि केन्द्र सरकार ने इस अधिसूचना के अनुबंध में उल्लिखित शर्तों के अधीन वाणिज्य तथा उद्योग मंत्रालय के दिनांक 24-4-2006 के पत्र सं. 15/197/2005-आई पी एंड आई डी के अन्तर्गत उक्त औद्योगिक पार्क को अनुमोदित किया है;

अब, इसलिए, उक्त अधिनियम की धारा 80 झ क की उप-धारा (4) के खंड (iii) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्र सरकार एतद्द्वारा उक्त खंड (iii) के प्रयोजनार्थ औद्योगिक पार्क के रूप में मैसर्स राजस्थान स्टेट इंडस्ट्रियल डेवलपमेंट एंड इन्वेस्टमेंट कार्पोरेशन लिमिटेड, जयपुर द्वारा विकसित तथा अनुरक्षित एवं प्रचालित किए जा रहे उक्त उपक्रम को अधिसूचित करती है।

अनुबंध

शर्तें जिन पर भारत सरकार ने मैसर्स राजस्थान स्टेट इंडस्ट्रियल डेवलपमेंट एंड इनवेस्टमेंट कार्पोरेशन लिमिटेड, जयपुर द्वारा औद्योगिक पार्क गठित किए जाने हेतु अनुमोदन प्रदान किया गया है।

1.	(i) औद्योगिक उपक्रम का नाम	:	राजस्थान स्टेट इंडस्ट्रियल डेवलपमेंट एंड इनवेस्टमेंट कार्पोरेशन लिमिटेड
	(ii) प्रस्तावित स्थान	:	सोटानाला, जिला-अलवर, राजस्थान-301706
	(iii) औद्योगिक पार्क का कुल क्षेत्रफल	:	142.80 एकड़

(iv) प्रस्तावित कार्यकलाप

एन आई सी संहिता के साथ औद्योगिक कार्यकलाप का स्वरूप					
	एन आई सी संहिता				विवरण
क्रम सं.	अनुभाग	प्रभाग	समूह	श्रेणी	
क	2 एवं 3	–	–	–	विनिर्माण

(v) औद्योगिक उपयोग के लिए प्रस्तावित आबंटनीय क्षेत्र का प्रतिशत : 95.63%

(vi) वाणिज्य उपयोग के लिए निर्धारित भूमि का प्रतिशत : 4.37%

(vii) औद्योगिक यूनिटों की न्यूनतम संख्या : 68 यूनिटें

(viii) प्रस्तावित कुल निवेश (राशि रुपए में) : 602.40 लाख

(ix) औद्योगिक उपयोग के लिए निर्मित स्थान पर निवेश (राशि रुपए में) : शून्य

(x) अवसंरचनात्मक विकास पर निवेश जिसमें औद्योगिक उपयोग के लिए निर्मित स्थान पर निवेश भी शामिल है (राशि रुपए में) : 427.40 लाख

(xi) औद्योगिक पार्क के आरंभ होने की तिथि : 31-03-2006

2. किसी औद्योगिक पार्क में अवसंरचना विकास पर न्यूनतम निवेश कुल परियोजना लागत के 50% से कम नहीं होगा । ऐसे औद्योगिक पार्क जो औद्योगिक उपयोग के लिए निर्मित स्थल प्रदान करता है, के मामले में औद्योगिक स्थल के निर्माण कार्य की लागत सहित अवसरंचना विकास पर न्यूनतम खर्च कुल परियोजना लागत के 60% से कम नहीं होगा ।

3. अब संरचना विकास में सड़क (सम्पर्क सड़क सहित), जलापूर्ति तथा सीवरेज, दूषित जल शोधन सुविधा, टेलिकॉम नेटवर्क, विद्युत उत्पादन एवं वितरण, वातानुकूलन तथा ऐसी अन्य सुविधाएं जो औद्योगिक कार्यकलाप हेतु सामान्य उपयोग के लिए हैं जो निर्धारणीय हैं एवं वाणिज्यिक दृष्टि से उपलब्ध कराई जाती हैं ।

4. दिनांक 1 अप्रैल, 2002 की का.आ. 354(अ) के पैराग्राफ 6 के उप पैराग्राफ (ख) में निर्दिष्ट तालिका के कालम (2) में उल्लिखित कोई भी एकल इकाई किसी औद्योगिक पार्क के लिए नियत औद्योगिक क्षेत्र का 50 से अधिक हिस्सा धारित नहीं करेगी । इस प्रयोजनार्थ किसी इकाई का आशय एक या एक से अधिक राज्य अथवा केन्द्रीय कर कानून के प्रयोजन के लिए किसी अलग तथा भिन्न कम्पनी से है ।

5. आवश्यक अनुमोदनों जिनमें विदेशी निवेश संवर्धन बोर्ड अथवा भारतीय रिजर्व बैंक अथवा यथा समय प्रवृत्त किसी कानून के अन्तर्गत विनिर्दिष्ट किसी प्राधिकरण के द्वारा विदेशी प्रत्यक्ष निवेश अथवा अनिवासी भारतीय निवेश भी शामिल है, को प्रवृत्त नीति तथा प्रक्रियाओं के अनुसार अलग से लिया जाएगा ।

6. इस अधिसूचना के पैरा 1(vii) में विनिर्दिष्ट संख्या में इकाइयों के औद्योगिक पार्क में अवस्थित होने के उपरान्त ही इस अधिनियम के अन्तर्गत कर लाभ प्राप्त हो सकते हैं ।

7. मैसर्स राजस्थान स्टेट इंडस्ट्रियल डेवलपमेंट एंड इनवेस्टमेंट कार्पोरेशन लिमिटेड, जयपुर उस अवधि के दौरान औद्योगिक पार्क का प्रचालन जारी रखेगा जिस अवधि में आयकर अधिनियम, 1961 की धारा 80 झ क की उपधारा (4) के खंड (iii) के अन्तर्गत लाभ लिए जाने हैं ।

8. यदि उक्त औद्योगिक पार्क के आरंभ होने में इस अधिसूचना के पैरा 1(xi) में निर्दिष्ट तिथि से एक वर्ष से ज्यादा विलम्ब होगा तो आयकर अधिनियम, 1961 की धारा 80 झ क की उपधारा 4(iii) के अंतर्गत लाभ प्राप्त करने के लिए औद्योगिक पार्क योजना, 2002 के अन्तर्गत नया अनुमोदन प्राप्त करना अपेक्षित होगा ।

9. यह अनुमोदन अवैध रहेगा और मैसर्स राजस्थान स्टेट इंडस्ट्रियल डेवलपमेंट एंड इन्वेस्टमेंट कार्पोरेशन लिमिटेड, जयपुर ऐसी किसी अवैधता की प्रतिक्रिया के लिए स्वयं ही जिम्मेदार होगा, यदि

(i) आवेदन पत्र जिसके आधार पर केन्द्र सरकार द्वारा अनुमोदन प्रदान किया गया है, में गलत सूचना/त्रुटिपूर्ण सूचना अथवा कतिपय तथ्यपरक सूचना न दी गई हो ।

(ii) यह उक्त औद्योगिक पार्क की अवस्थिति हेतु हो जिसके लिए अनुमोदन किसी अन्य उपक्रम के नाम में पहले ही प्रदान किया गया हो ।

10. यदि मैसर्स राजस्थान स्टेट इंडस्ट्रियल डेवलपमेंट एंड इन्वेस्टमेंट कार्पोरेशन लिमिटेड, जयपुर (अर्थात् अन्तरणकर्ता उपक्रम) औद्योगिक पार्क का प्रचालन और अनुरक्षण किसी दूसरे उपक्रम (अर्थात् अंतरिती उपक्रम) को हस्तांतरित करेगा तो अंतरणकर्ता और अंतरिती

उपर्युक्त हस्तांतरण के लिए अंतरणकर्ता और अंतरिती उपक्रम के बीच निष्पादित करार की प्रति के साथ औद्योगिक सहायता सचिवालय, औद्योगिक नीति और संवर्धन विभाग, उद्योग भवन, नई दिल्ली-11 की उद्यमशीलता सहायता यूनिट को संयुक्त रूप से सूचित करेंगे ।

11. इस अधिसूचना में उल्लिखित शर्तों के साथ-साथ औद्योगिक पार्क स्कीम, 2002 में शामिल शर्तों का अनुपालन उस अवधि के दौरान किया जाना चाहिए जिसमें इस स्कीम के अंतर्गत लाभ प्राप्त किए जाने हैं । केन्द्र सरकार उपर्युक्त अनुमोदन को वापस ले सकती है। यदि मैसर्स राजस्थान स्टेट इंडस्ट्रियल डेवलपमेंट एंड इन्वेस्टमेंट कार्पोरेशन लिमिटेड, जयपुर किसी भी शर्त के अनुपालन में असफल रहता है ।

12. केन्द्र सरकार के अनुमोदन के बिना प्रोजेक्ट प्लान में किया गया कोई भी संशोधन अथवा भविष्य में पता लगाना अथवा किसी ठोस तथ्य का उद्घाटन करने में आवेदक का असफल रहना, औद्योगिक पार्क के अनुमोदन को अवैध बना देना ।

[अधिसूचना सं. 54/2007/फा. सं. 178/117/2006-आ.क.नि.-I]

दीपक गर्ग, अवर सचिव

New Delhi, the 15th February, 2007

(INCOME-TAX)

S.O. 604.—Whereas the Central Government in exercise of the powers conferred by clause (iii) of sub-seciton (4) of Section 80-IA of the Income-tax Act, 1961 (43 of 1961) (hereinafter referred to as the said Act), has framed and notified a scheme for industrial park, by the notifications of the Government of India in the Ministry of Commerce and Industry (Department of Industrial Policy and Promotion) vide number S.O. 193(E), dated the 30th March, 1999, for the period beginning on the 1st day of April, 1997 and ending on the 31st day of March, 2002 and vide number S.O. 354(E) dated the 1st day of April, 2002, for the period beginning on the 1st day of April, 1997 and ending on the 31st day of March, 2006;

And whereas M/s. Rajasthan State Industrial Development & Investment Corporation Limited, having registered office at Udyog Bhawan, Tilak Marg, Jaipur-302005 is developing an Industrial Park at Sotanala, District–Alwar, Rajasthan–301 706;

And whereas the Central Government has approved the said Industrial Park vide Ministry of Commerce and Industry letter No. 15/197/2005-IP&ID dated 24-4-2006 subject to the terms and conditions mentioned in the annexure to this notification;

Now, therefore, in exercise of the powers conferred by clause (iii) of sub-section (4) of Section 80-1A of the said Act, the Central Government hereby notifies the undertaking, being developed and being maintained and operated by M/s. Rajasthan State Industrial Development & Investment Corporation Limited, Jaipur, as an industrial park for the purposes of the said clause (iii).

ANNEXURE

The terms and conditions on which the approval of the Government of India has been accorded for setting up of an industrial park by M/s. Rajasthan State Industrial Development & Investment Corporation Limited, Jaipur.

1.	(i) Name of the Industrial Undertaking,	:	Rajasthan State Industrial Development & Investment Corporation Limited
	(ii) Proposed location	:	Sotanala, District–Alwar, Rajasthan–301 706
	(iii) Area of Industrial Park	:	142.80 Acres
	(iv) Proposed activities	:	

Nature of Industrial activity with NIC Code

	NIC Code				Description
S. No.	Section	Division	Group	Class	
A	2 & 3	—	—	—	Manufacturing

(v)	Percentage of allocable area earmarked for Industrial use	:	95.63%
(vi)	Percentage of allocable area earmarked for commercial use	:	4.37%
(vii)	Minimum number of industrial units	:	68 Units
(viii)	Total investments proposed (Amount in Rupees)	:	602.40 lakhs

(ix) Investment on built up space for Industrial use (Amount in Rupees) : Nil

(x) Investment on Infrastructure Development including investment on built up space for industrial use (Amount in Rupees) : 427.40 lakhs

(xi) Proposed date of commencement of the Industrial Park : 31-03-2006

2. The minimum investment on infrastructure development in an Industrial Park shall not be less than 50% of the total project cost. In the case of an Industrial Park which provides built-up space for industrial use, the minimum expenditure on infrastructure development including cost of construction of industrial space, shall not be less than 60% of the total project cost.

3. Infrastructure development shall include, roads (including approach roads), water supply and sewerage, common effulent treatment facility, telecom network, generation and distribution of power, air-conditioning and such other facilities as are for common use for industrial activity which are identifiable and are provided on commercial terms.

4. No single unit referred to in column (2) of the Table given in sub-paragraph (b) of paragraph 6 of S.O. 354(E) dated the 1st April, 2002, shall occupy more than fifty percent of the allocable industrial area of an Industrial Park. For this purpose a unit means any separate and district entity for the purpose of one and more state or Central tax laws.

5. Necessary approvals, including that for foreign direct investment or non-resident Indian investment by the Foreign Investment Promotion Board or Reserve Bank of India or any authority specified under any law for the time being in force, shall be taken separately as per the policy and procedures in force.

6. The tax benefits under the Act can be availed of only after the number of units indicated in Para 1 (vii) of this Notification, are located in the Industrial Park.

7. M/s. Rajasthan State Industrial Development & Investment Corporation Limited, Jaipur, shall continue to operate the Industrial Park during the period in which the benefits under clause (iii) of sub-section (4) of Section 80IA of the Income-tax Act, 1961 are to be availed.

8. In case the commencement of the Industrial Park is delayed by more than one year from the date indicated in Para 1 (xi) of this notification, fresh approval will be required under the Industrial Park Scheme, 2002, for availing benefits under sub-section 4 (iii) of Section 80IA of the Income Tax Act, 1961.

9. The approval will be invalid and M/s. Rajasthan State Industrial Development & Investment Corporation Limited, Jaipur, shall be solely responsible for any repercussions of such invalidity, if

(i) the application on the basis of which the approval is accorded by the Central Government contains wrong information/misinformation or some material information has not been provided in it.

(ii) it is for the location of the industrial park for which approval has already been accorded in the name of another undertaking .

10. In case M/s. Rajasthan State Industrial Development & Investment Corporation Limited, Jaipur, transfers the operation and maintenance of the industrial park (i.e., transferor undertaking) to another undertaking (i.e., the transferee undertaking), the transferor and transferee shall jointly intimate to the Enterpreneurial Assistance Unit of the Secretariat for Industrial Assistantce, Department of Industrial Policy and Promotion, Udyog Bhawan, New Delhi-11 along with a copy of the agreement executed between the transferor and transferee undertaking for the aforesaid transfer.

11. The conditions mentioned in this notification as well as those included in the Industrial Park Scheme, 2002 should be adhered to during the period for which benefits under this scheme are to be availed. The Central Government may withdraw the above approval in case M/s. Rajasthan State Industrial Development & Investment Corporation Limited, Jaipur, fails to comply with any of the conditions.

12. Any amendment of the project plan without the approval of the Central Government or detection in future, or failure on the part of the applicant to disclose any material fact, will invalidate the approval of the industrial park.

[Notification No. 54/2007/F. No. 178/117/2006-ITA-I]

DEEPAK GARG, Under Secy.

नई दिल्ली, 20 फरवरी, 2007

का.आ. 605.–केन्द्रीय सरकार, राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम, 1976 के नियम 10 के उप नियम (4) के अनुसरण में राजस्व विभाग के निम्नलिखित कार्यालय, जिसके 80% से अधिक कर्मचारियों ने हिंदी का कार्य साधक ज्ञान प्राप्त कर लिया है, को अधिसूचित करती है :-

मुख्य आयकर आयुक्त का कार्यालय,
छत्तीसगढ़ अंचल,
रायपुर (छत्तीसगढ़)

[फा. सं. ए-11017/2/2007-हिन्दी-III]
बी. बालगोपाल, संयुक्त सचिव

New Delhi, the 20th February, 2007

S.O. 605.—In pursuance of Sub-rule (4) of Rule 10 of the Official Language (use for official purposes of the Union) Rules, 1976, The Central Government hereby notifies the following office of the Department of Revenue, whereof more than 80% of the staff have acquired the working knowledge of Hindi :

Office of the Chief Commissioner of Income Tax,
Chhattiesgarh zone,
Raipur (Chhattisgarh)

[F. No. A-11017/2/2007-Hindi-III]
B. BALAGOPAL, Jt. Secy.

(आर्थिक कार्य विभाग)

(बैंकिंग प्रभाग)

नई दिल्ली, 19 फरवरी, 2007

का.आ. 606.–भारतीय निर्यात आयात बैंक अधिनियम, 1981 (1981 का 28) की धारा 6 की उपधारा (1) के खंड (ड) के उप खंड (झ) के अनुसरण में, केन्द्रीय सरकार, एतद्द्वारा श्री राकेश सिंह, संयुक्त सचिव, वित्त मंत्रालय, आर्थिक कार्य विभाग (बैंकिंग प्रभाग), नई दिल्ली को श्री अमिताभ वर्मा के स्थान पर भारतीय निर्यात आयात बैंक के निदेशक बोर्ड में निदेशक के रूप में नामित करती है।

[फा. सं. 24/27/2001-आईएफ-I]
एम. साहू, अवर सचिव

(DEPARTMENT OF ECONOMIC AFFAIRS)
(Banking Division)

New Delhi, the 19th February, 2007

S.O. 606.—In pursuance of sub-clause (i) of clause (e) of sub-section (1) of Section 6 of the Export Import Bank of India Act, 1981 (28 of 1981), Central Government hereby nominates Shri Rakesh Singh, Joint Secretary, Ministry of Finance, Department of Economic Affairs (Banking Division), New Delhi as a Director on the Board of Directors of Export Import Bank of India vice Shri Amitabh Verma.

[F. No. 24/27/2001-IF-I]
M. SAHU, Under Secy.

नई दिल्ली, 19 फरवरी, 2007

का.आ. 607.–बैंककारी विनियमन अधिनियम, 1949 (1949 का 10) की धारा 53 (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, भारतीय रिजर्व बैंक की सिफारिश पर, एतद्द्वारा, यह घोषित करती है कि उक्त अधिनियम की धारा 10 ख की उप धारा (1), (2) और (9) के उपबंध उस सीमा तक, जहां तक कि वे बैंक को चार माह से अधिक की अवधि के लिए प्रबंध निदेशक के कर्तव्य का निर्वाह करने के लिए किसी व्यक्ति को नियुक्त करने से रोकते हैं, स्टेट बैंक ऑफ इंडिया कमर्शियल और इंटरनेशनल लि.पर 3 जनवरी, 2007 से 3 मई, 2007 तक या अगले प्रबंध निदेशक के कार्यभार ग्रहण करने तक, जो भी पहले हो, लागू नहीं होंगे।

[फा. सं. 15/1/2007-बीओए]
डी. पी. भारद्वाज, अवर सचिव

New Delhi, the 19th February, 2007

S.O. 607.—In exercise of the powers conferred by Section 53 (1) of the Banking Regulation Act, 1949 (10 of 1949) the Central Government, on the recommendations of Reserve Bank of India, hereby declares that the provisions of sub-section (1), (2) and (9) of Section 10B of the said Act, shall not, to the extent they preclude the bank from appointing a person to carry out the duties of the Managing Director beyond a period exceeding four months, apply to the State Bank of India Commercial and International Ltd. from January 3, 2007 to May 3, 2007 or till the next Managing Director assumes charge, whichever is earlier.

[F. No. 15/1/2007-BOA]
D. P. BHARDWAJ, Under Secy.

(बीमा प्रभाग)

नई दिल्ली, 27 फरवरी, 2007

का.आ. 608.–बीमा विनियमक और विकास प्राधिकरण अधिनियम, 1999 (1999 का 41) की धारा 4 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, एतद्द्वारा सुश्री इला आर. भट्ट को बीमा विनियामक और विकास प्राधिकरण (आईआरडीए) में 5 वर्ष की अवधि के लिए या अगले आदेशों तक, जो भी पहले हो, अंशकालिक सदस्य के रूप में नियुक्त करती है।

[फा. सं. 11/3/2004-बीमा-III]
जी. सी. चतुर्वेदी, संयुक्त सचिव

(Insurance Division)

New Delhi, the 27th February, 2007

S.O. 608.—In exercise of the powers conferred by Section 4 of the Insurance Regulatory and Development Authority Act, 1999 (41 of 1999), the Central Government hereby appoints Ms. Ela R. Bhatt as part-time Member, Insurance Regulatory and Development Authority (IRDA) for a period of 5 years or until further orders whichever is earlier.

[F. No. 11/3/2004-Ins.-III]
G. C. CHATURVEDI, Jt. Secy.

पंचायती राज मंत्रालय

नई दिल्ली, 20 फरवरी, 2007

का.आ. 609.—केन्द्रीय सरकार, राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम, 1976 के नियम 10 के उप नियम (4) के अनुसरण में पंचायती राज मंत्रालय, सरदार पटेल भवन, नई दिल्ली, जिनके 80% कर्मचारीवृंद ने हिंदी का कार्यसाधक ज्ञान प्राप्त कर लिया है, एतद्द्वारा अधिसूचित करती है ।

[सं. 11011/3/2006-हिन्दी]

अवतार सिंह सहोता, संयुक्त सचिव

MINISTRY OF PANCHAYATI RAJ

New Delhi, the 20th February, 2007

S.O. 609.—In pursuance of Sub-rule (4) of Rule 10 of the Official Language (Use for Official purposes of the Union) Rules, 1976, The Central Government hereby notifies Ministry of Panchayati Raj, Sardar Patel Bhawan, Sansad Marg, New Delhi where of 80% have acquired working knowledge of Hindi :

[No. 11011/3/2006-Hindi]

AVTAR SINGH SAHOTA, Jt. Secy.

स्वास्थ्य और परिवार कल्याण मंत्रालय

(स्वास्थ्य विभाग)

नई दिल्ली, 12 फरवरी, 2007

का.आ. 610.—केन्द्रीय सरकार दंत चिकित्सक अधिनियम, 1948 (1948 का 16) की धारा 10 की उपधारा (2) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए भारतीय दन्त चिकित्सा परिषद् से परामर्श करके उक्त अधिनियम की अनुसूची के भाग-I में एतद्द्वारा निम्नलिखित संशोधन करती है; अर्थात् :—

2. दंत चिकित्सक अधिनियम, 1948 (1948 का 16) की अनुसूची के भाग-I में पुणे युनिवर्सिटी, पुणे महाराष्ट्र से संबंधित क्रम सं. 45 (II) के सामने स्तंभ 2 एवं 3 की मौजूदा प्रविष्टियों में प्रवर मेडिकल ट्रस्ट रूरल डेंटल कालेज, लोनी, महाराष्ट्र के संबंध में निम्नलिखित प्रविष्टियां अंत: स्थापित की जाएंगी :-

"मास्टर आफ डेंटल सर्जरी :

(i) आर्थोडान्टिक्स (यदि 8-2-2005 को अथवा उसके बाद प्रदान की गई हो)	एम डी एस (आर्थोडान्टिक्स) पुणे युनिवर्सिटी, पुणे (महाराष्ट्र)
(ii) प्रोस्थोडान्टिक्स (यदि 11-2-2005 को अथवा उसके बाद प्रदान की गई हो)	एम डी एस (प्रोस्थोडान्टिक्स) पुणे युनिवर्सिटी, पुणे (महाराष्ट्र)
(iii) पीरियडान्टिक्स (यदि 5-2-2005 को अथवा उसके बाद प्रदान की गई हो)	एम डी एस (पीरियडान्टिक्स) पुणे युनिवर्सिटी, पुणे (महाराष्ट्र)
(iv) कन्जरवेटिव डेंटिस्ट्री (यदि 15-2-2005 को अथवा उसके बाद प्रदान की गई हो)	एम डी एस (कन्जरवेटिव) डेंटिस्ट्री पुणे युनिवर्सिटी, पुणे (महाराष्ट्र)
(v) ओरल एंड मैक्सिलोफेशियल सर्जरी (यदि 15-2-2005 को अथवा उसके बाद प्रदान की गई हो)	एम डी एस (ओरल एंड मैक्सिलोफेशियल सर्जरी) पुणे युनिवर्सिटी, पुणे (महाराष्ट्र)"

[फा. सं. वी-12017/18/98-पी एम एस/डी ई]

राज सिंह, अवर सचिव

MINISTRY OF HEALTH AND FAMILY WELFARE

(Department of Health)

New Delhi, the 12th February, 2007

S.O. 610.—In exercise of the powers conferred by sub-section (2) of Section 10 of the Dentists Act of 1948 (16 of 1948), the Central Government, after consultation with Dental Council of India, hereby makes the following amendment in Part-I of the Schedule to the said Act, namely :—

2. In the exsting entries of column 2 and 3 against Serial No. 45 (II) in Part-I of the Schedule to the Dentists Act, 1948 (16 of 1948) pertaining to Pune University, Pune, Maharashtra, the following entires in respect of Pravara Medicat Trust's Rural Dental College, Loni, Maharashtra, shall be inserted thereunder :—

"Master of Dental Surgery :

(i) Orthodontics (If granted on or after 8-2-2005)	MDS (Orthodontics) University of Pune, Pune (Maharashtra)
(ii) Prosthodontics (If granted on or after 11-2-2005)	MDS (Prosthodontics) University of Pune, Pune (Maharashtra)
(iii) Periodontics (If granted on or after 5-2-2005)	MDS (Periodontics) University of Pune, Pune (Maharashtra)
(iv) Conservative Dentistry (If granted on or after 15-2-2005)	MDS (Conservative) Dentistry University of Pune, Pune (Maharashtra)
(v) Oral & Maxillofacial Surgery (If granted on or after 15-2-2005)	MDS (Oral & Maxillofacial) Surgery University of Pune, Pune (Maharashtra)"

[F. No. V-12017/18/98-PMS/DE]

RAJ SINGH, Under Secy.

नई दिल्ली, 22 फरवरी, 2007

का.आ. 611.—भारतीय आयुर्विज्ञान परिषद् अधिनियम, 1956 (1956 का 102) की धारा 3 की उपधारा (1) (ख) के उपबंधों के अनुसरण में डॉ. पी. विजयलक्ष्मी को डॉ. एम. जी. आर. मेडिकल यूनिवर्सिटी की सीनेट द्वारा उन्हें 21-7-2005 से निर्वाचित किए जाने पर भारतीय आयुर्विज्ञान परिषद् के एक सदस्य के रूप में नियुक्त किया गया था।

तमिलनाडु डॉ. एम.जी.आर. मेडिकल यूनिवर्सिटी, चेन्नई ने सूचित किया है कि डॉ. एम. जी. आर. मेडिकल यूनिवर्सिटी के चिकित्सा संकाय में डॉ. पी. विजयलक्ष्मी की सदस्यता अवधि सरकारी सेवा से उनकी सेवानिवृति के कारण 30-11-2006 को समाप्त हो गई

है। इसलिए डॉ. पी. विजयलक्ष्मी की भारतीय आयुर्विज्ञान परिषद् में डॉ. एम. जी. आर. मेडिकल यूनिवर्सिटी की प्रतिनिधि के रूप में सदस्यता समाप्त हो गई है।

अब, इसलिए उक्त अधिनियम की धारा 7 की उप-धारा (3) के उपबंधो के अनुसरण में डॉ. पी. विजयलक्ष्मी का परिषद् में स्थान 30-11-2006 से रिक्त समझा जाएगा।

[फा. वी-11013/2/2004-एम. ई. (नीति-1)]

टी. जे. एस. चावला, अवर सचिव

New Delhi, the 22nd February, 2007

S.O. 611.—Whereas in pursuance of the provision of sub-section (1) (b) of Section 3 of the Indian Medical Act, 1956 (102 of 1956) Dr. P. Vijayalakshmi was appointed as a member of the Medical Council of India on his election by Senate of Dr. M.G.R. Medical University with effect from 21-7-2005.

Whereas The Tamil Nadu Dr. M.G.R. Medical University, Chennai has informed that membership of Dr. P. Vijayalakshmi on the Medical faculty of Dr. M.G.R. Medical University expired on 30-11-2006 due to her retirement from Government Service. Therefore, Dr. P. Vijayalakshmi has ceased to be a member of Medical Council of India representing Dr. M.G.R. Medical University.

Now, therefore, in pursuance of the provision of sub section (3) of Section 7 of the said Act, Dr. P. Vijayalakshmi shall be deemed to have vacated his seat in the Council with effect from 30-11-2006.

[No. V-11013/2/2004-ME (Policy-I)]

T. J. S. CHAWLA, Under Secy.

वाणिज्य एवं उद्योग मंत्रालय

(वाणिज्य विभाग)

नई दिल्ली, 15 फरवरी, 2007

का.आ. 612.—केन्द्रीय सरकार निर्यात (क्वालिटी नियंत्रण और निरीक्षण) अधिनियम, 1963 (1963 का 22) की धारा 17 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए ताजी प्रशीतित और प्रसंस्कृत मछली और मछली उत्पाद निर्यात (क्वालिटी नियंत्रण और निरीक्षण तथा मानीटरी) नियम, 1995 का और संशोधन करने के लिए निम्नलिखित नियम बनाती है, अर्थात् :—

1. (1) इन नियमों का संक्षिप्त नाम ताजी, प्रशीतित और प्रसंस्कृत मछली और मछली उत्पाद निर्यात (क्वालिटी नियंत्रण और निरीक्षण तथा मानीटरी) संशोधन नियम, 2006 है ।

(2) ये राजपत्र में प्रकाशन की तारीख को प्रवृत्त होंगे ।

2. ताजी प्रशीतित और प्रसंस्कृत मछली और मछली उत्पाद निर्यात (क्वालिटी नियंत्रण और निरीक्षण तथा मानीटरी) नियम, 1995 (जिसे इसमें इसके पश्चात् मूल नियम के रूप में निर्दिष्ट किया गया है) के नियम 2, खंड 2.20 के पश्चात् निम्नलिखित परिभाषाएं अंत:स्थापित की जाएंगी, अर्थात् :—

2.21 "प्रशीतक जलयान" से जहां मंत्स्य उत्पादों को प्रशीतित और अधिक प्रसंस्कृत तथा भूमि पर पैकिंग के लिए भंडारित किया जाता है, अभिप्रेत है ।

2.22 "मत्स्य जलयान" से ऐसा मत्स्य क्रिया क्रियाकलापों में लगा जलयान अभिप्रेत है जिस पर मछली उत्पाद और प्रसंस्करण, प्रशीतक तथा भूमि पर पैकिंग के लिए अनुकूल दशा में भंडारित किए जाते हैं ।

3. मूल नियमों में, उपाबंध-1 में, खंड-II के पश्चात् निम्नलिखित खंड अंत:स्थापित किया जाएगा, अर्थात् :—

"III. मछली जलयान और प्रशीतक जलयान के लिए शर्तें लागू होंगी"

1. मछली जलयान और प्रशीतक जलयान के लिए न्यूनतम अपेक्षाएं निम्नलिखित हैं :—

1.1 जलयान का डिजाइन और संरचना इस प्रकार की होगी जिससे उत्पादों को जलयान का पेंदा, सीवर, धुए, ईंधन, तेल, ग्रीस या अन्य आपत्तिजनक पदार्थों के संदूषण से बचाया जा सके ।

1.2 पृष्ठ सतह जिसमें मछली उत्पाद संपर्क में आते हैं चिकनी विषरहित और आसानी से साफ होने वाले, जंग प्रतिरोधी सामग्री की होनी चाहिए ।

1.3 ताजे मत्स्य उत्पादों को 24 घंटे से अधिक संरक्षित करने के लिए डिजायन और उपस्करित जलयान, गलन हिम तक पहुंचने वाले तापमान पर मत्स्य उत्पादों के भंडारण के लिए नियंत्रक, टैंक या आधान से सुसज्जित होंगे । ये नियंत्रक मशीनरी स्थान और कर्मीदल क्वाटरों से विभाजन द्वारा पृथक होंगे जो भडारित मत्स्य उत्पादों को किसी संदूषण से बचाने के लिए पर्याप्त होंगे ।

1.4 नियंत्रकों को यह सुनिश्चित करने के लिए इस प्रकार डिजाइन किया जाना चाहिए कि पिछला जल मत्स्य उत्पादों के संपर्क में न रह सके ।

1.5 उत्पादों के भंडारण में प्रयुक्त आधान, ऐसे होगें जो स्वास्थ्य के समाधान प्रद दशा के अधीन उनके संरक्षण और विशिष्टत पिछले जल की निकासी को सुनिश्चित करें ।

1.6 उत्पादों के काम में आने वाले उपस्कर और सामग्री जंगरोधी सामग्री ऐसी होनी चाहिए जिसे आसानी से साफ व कीटाणुमुक्त किया जा सके ।

1.7 यदि मछली उत्पादों को बोर्ड पर प्रशीतित किया जाता है तो इन नियमों के उपाबंध IV(II) में अधिकथित दशाओं में यह प्रचालित किया जाये ।

1.8 साफ ठंडे समुद्री जल में ठंडे मछली उत्पादों के लिए सज्जित जलयान जिसमें शीतित मछली उत्पाद रखा गया है शीतित करने के उपकरणों से युक्त जलयानों की टंकियों में ऐसी युक्तियां लगी होनी चाहिए जिससे समूचे टैंकों में तापमान एक समान रहे । ऐसी युतियां शीतित दर प्राप्त करने में सक्षम होनी चाहिए जिससे मछली और स्वच्छ समुद्री जल का मिश्रण लदान पश्चात् छह घंटों में 3 डिग्री सेल्सियस से अधिक नहीं और 16 घंटों के पश्चात् 0 डिग्री सेल्सियस से अधिक नहीं पहुंच सके ।

1.9 प्रशीतक जलयान ऐसे उपस्करों से सुसज्जित होने चाहिए जो इस बात से यथेष्ट रूप से सक्षम हो कि उत्पादों का नीचे का तापमान तेजी से इस प्रकार पहुंचेगा कोर तापमान 18 डिग्री सेल्सियस से अधिक नहीं पहुंच सके और ऐसे प्रशीतिक उपकरणों से युक्त हो जो भंडारण प्रकोष्ट में मछली उत्पादों के तापमान का स्तर 18 सेल्सियस से अधिक बनाए रखने की समुचित क्षमता रखता हो । भंडार प्रकोष्ठ तापमान अभिलेखन युतियों से युक्त होनी चाहिए जो सुगमता से पढ़े जा सकने वाले स्थान पर लगी हो । पाठ्य का तापमान सैंटर को तापमान संवेदक शीतगृह के उष्णतम स्थान पर स्थित होना चाहिए ।

2. मछली पकड़ एवं प्रशीतक जलयानों में लागू होने वाली सामान्य शर्तें निम्न प्रकार हैं,

2.1 यह सुनिश्चित किया जए कि उपस्करों आधानों और समस्त मछली संपर्क सतहों का पीने-योग्य जल या स्वच्छ समुद्री जल से निश्चित अंतराल पर साफ और रोगाणुमुक्त किया जाए ।

2.2 जैसे मछली उत्पाद जलयान पर चढ़ाए जाए उन्हें संदूषण, धुप तथा उष्मा के किसी भी अन्य स्त्रोत के प्रभाव से सुरक्षित रखा जाए । जब मछली उत्पादों को धोया जाए जो प्रयुक्त जल या तो पीने योग्य हो या स्वच्छ समुद्री जल हो ताकि उनकी (उत्पादों की) क्वालिटी एवं सम्पूर्णता (पौष्टिकता) पर प्रतिकूल प्रभाव न हो ।

2.3 मछली उत्पादों का रखरखाव एवं भंडारण इस प्रकार से हो जिससे उन खरोंचों से बचा जा सके । नुकीले उपकरणों का प्रयोग बड़ी मछलियों तथा मदृली हैंडलकर को चोट पहुंचा पाले वाली मछलियों को स्थानांतरण करके के इस्तेमाल किया जा सकता है बशर्ते कि मछली उत्पादों के मांसल भाग को क्षति न पहुंचे ।

2.4 मछली उत्पादों को जो जीवित रखे गये हों उन्हें छोड़कर प्राप्ति के बाद यथाशीघ्र उपचार से अवश्य गुजरना चाहिए, विशेषतया उन मामलों में जहां मछली उत्पादों को जलयान पर 8 घंटों से अधिक अवधि के लिए भंडारण करना हो ।

2.5 उत्पादों के प्रशीतन के लिए प्रयुक्त बर्फ पीने योग्य अथवा स्वच्छ समुद्री जल से बनी हो । प्रयोग में लाने से पहले बर्फ को उन अवस्थाओं में किया जाए जिनमें उनकों संदूषित होने से बचाया जा सके ।

2.6 जहां मछली यान पर शीर्ष काटने और/या मांसल भाग अलग करने का कार्य होना हो, यह कार्य स्वास्थ्य नियमों का पालन करते हुए होना चाहिए और उत्पादों को तुरंत पीने योग्य जल या स्वच्छ समुद्री जल से पूरी तरह से धोया जाना चाहिए ।

2.7 मांसल भाग अलग करने एवं सिरच्छेदन आदि में प्रयुक्त उपकरण और मछली उत्पादों के भंडारण में प्रयुक्त आधान अवश्य ही ऐसे पदार्थ से बने हों या उन पर ऐसे पदार्थ की परत हो जो जलरोधक, क्षयरोधक के साथ-साथ चिकने आसानी से साफ होने वाले एवं रोगाणुमुक्त किए जा सकने वाले हो ।

2.8 मछली उत्पादों के रखरखाव के लिए लगाए गए कर्मचारियों के लिए यह आवश्यक होगा कि वे अपनी और अपने वस्त्रों की उच्च स्वच्छता बनाए रखे । मछली उत्पादों को संदूषित करने वाले कर्मचारियों को उत्पादों के रखरखाव की अनुमति नहीं दी जाएगी ।

2.9 सफाई में काम आने वाले रोगाणुमुक्त और विष संभावना युक्त पदार्थ तालाबंद परिसर या आलमारियों में भंडारित किए जाएंगे। उनका प्रयोग मछली उत्पादों के संदूषण की जोखिम की संभावना से मुक्त होना चाहिए ।

[फा. सं. 2/30/2006-ईआई एंड ईपी]

वी. के. गाबा, उप सचिव

टिप्पण :–मूल नियम भारत के राजपत्र असाधारण सं. का. आ. 730(अ) तारीख 21 अगस्त, 1995 द्वारा प्रकाशित किए गए और तत्पश्चात् सं. का. आ. 415(अ) तारीख11 अप्रैल, 2002 सं. का. आ. 1029(अ) तारीख 24 सितंबर, 2002, सं. का. आ. 1034(अ) तारीख 9 सितंबर, 2003 और सं. का. आ. 717(अ) तारीख 25-02-2005 द्वारा संशोधन किए गए ।

MINISTRY OF COMMERCE AND INDUSTRY

(Department of Commerce)

New Delhi, the 15th February, 2007

S.O. 612.—In exercise of the powers conferred by Section 17 of the Export (Quality Control and Inspection) Act, 1963 (22 of 1963), the Central Government hereby makes the following rules further to amend the Export of Fresh, Frozen and Processed Fish and Fishery Products (Quality Control Inspection and Monitoring) Rules, 1995, namely :—

1. (1) These rules be called the Export of Fresh, Frozen and Processed Fish and Fishery Products (Quality Control Inspection and Monitoring) Amendment Rules, 2006.

(2) These shall come into force on the date of their publicatin in the Official Gazette.

2. In the Export of Fresh, Frozen and Processed Fish and Fishery Products (Quality Control, Inspection and Monitoring) Rules, 1995 (hereinafter referred to as the principal rules,), in rule 2, after clause 2.20, the following definitions may be inserted, namely :—

"2.21 'Freezer vessels' mean vessels where fishery products are frozen and stored for further processing and packing on land.

2.22 'Fishing vessels' means vessels engaged in fishing activities where fishery products are stored in optimal conditions for further processing, freezing and packing on land".

3. In the principal rules, in Annexure-I, after clause II, the following clause shall be inserted, namely :—

"III. Conditions Applicable to Fishing Vessels and Freezer Vessels."

1. Minimum requirements for fishing vessels or freezer vessels are as follows :

1.1 Vessels must be designed and constructed so as to avoid contamination of the products with bilge water, sewage, smoke, fuel, oil, grease or other objectionable substances.

1.2 Surface with which fishery products come in contact must be suitable corrosion-resistant material that is smooth, non toxic and easy to clean.

1.3 Vessels designed and equipped to preserve fresh fishery products for more than 24 hours shall be equipped with holds, tanks or containers for the storage of fishery products at a temperature approaching that of melting ice. These holds shall be separated from the machinery space and the crew quarters by partitions which are sufficient to prevent any contamination of the stored fishery products.

1.4 The holds shall be designed to ensure that melt water cannot remain in contact with fishery products.

1.5 Containers used for the storage of products shall be such as to ensure their preservation under satisfactory conditions of hygiene and in particular, allow drainage of melt water.

1.6 Equipments and materials unsed for working fishery products shall be made of corrosion-resistant material that is easy to clean and disinfect.

1.7 If fishery products are frozen on board, this operation must be carried out with the conditions laid down in Annexure-IV (II) of these rules.

1.8 In vessels equipped for chilling fishery products in cooled clean seawater, tanks must incorporate devices for achieving a uniform temperature throughout the tanks. Such devices must achieve a chilling rate that ensures that the mix of fish and clean seawater reaches not more than $3^{o}C$ six hours after loading and not more than $0^{o}C$ after 16 hours.

1.9 The freezer vessels shall have equipment with sufficient capacity to lower the temperature of the products rapidly so as to achieve a core temperature of not more than-$18^{o}C$ and have refrigeration equipment with sufficient capacity to maintain fishery products in the storage holds at not more than-$18^{o}C$. Storage holds shall be equipped with a temperature-recording device in a place where it can be easily read. The temperature sensor of the reader shall be situated in the warmest area of the cold store.

2. General hygiene conditions applicable to fishing and freezer vessels are as follows :

2.1 It shall be ensured that equipments, containers and all the fish contact surfaces shall be periodically cleaned with potahle water or clean seawater and disinfected.

2.2 As soon as the fishery products are taken on board, they must be protected from contamination and from the effects of sun or any other source of heat. When the fishery products are washed, the water used must be either potable water or clean seawater, so as not to impair their quality and wholesomeness.

2.3 Fishery Products shall be handled and stored in such a way as to prevent bruising. The use of spiked instruments shall be tolerated for the moving of large fish or fish which might injure the handler, provided the flesh of these products in not damaged.

2.4 Fishery products other than those kept alive must undergo cold treatment as soon as possible after procurement, especially in case where the fishery products are to be stored for more than 8 hours on board.

2.5 Ice used for chilling of products must be made from potable water or clean seawater. Before use, ice must be stored under conditions, which prevent its contamination.

2.6 Where fish is headed and/or gutted on board, such operations must be carried out hygienically and the products must be washed immediately and thoroughly with potable water or clean seawater.

2.7 Equipments used for gutting, heading etc. and also the container used for storing fishery porducts shall be made of or coated with a material which is waterproof, resistant to decay, smooth and easy to clean and disinfect.

2.8 Staff assigned to the handling of fishery products shall be required to maintain a high standard of cleanliness for themselves and their clothes. Persons liable to contaminate fishery products shall not be permitted to handle the products.

2.9 Cleaning products, disinfectants, insecticides and all potentially toxic substances shall be stored in locked premises or cupboards. Their use must not present any risk of contamination of the fishery products."

[F. No. 2/30/2006-EI&EP]

V.K. GAUBA, Dy. Secy.

Note :—The principal rules were published in the Gazette of India Extraordinary *vide* notification No. S.O. 730(E) dated the 21st August, 1995 and subsequently amended *vide* notification No. S.O. 415(E) dated 11th April, 2002, S.O. 1029(E) dated the 24th September, 2002, S.O. 1034(E) dated the 9th September, 2003 and S.O. 717 dated 25-02-2005.

सूचना और प्रसारण मंत्रालय

नई दिल्ली, 2 जनवरी, 2007

का.आ. 613.—चलचित्र (प्रमाणन) नियमावली, 1983 के नियम 7 और 8 के साथ पठित चलचित्र अधिनियम, 1952 (1952 का 37) की धारा 5 की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केंद्र सरकार केंद्रीय फिल्म प्रमाणन बोर्ड के गुवाहाटी सलाहकार पैनल को गठित करती है और तत्काल प्रभाव से दो वर्षों की अवधि के लिए या अगले आदेशों तक, जो भी पहले हो, उक्त पैनल के सदस्यों के रूप में निम्नलिखित व्यक्तियों को नियुक्त करती है । यह इस मंत्रालय की दिनांक 4 फरवरी, 2004 की अधिसूचना सं. 809/8/2004-एफ (सी) का अधिक्रमण करती है ।

1. श्रीमती मोलोया गोस्वामी
2. श्रीमती मिनाती हजारिका

3. श्रीमती बीबीदेवी बोरबरूआ
4. श्रीमती अनुपमा बसुमैत्री
5. श्रीमती अवा हजारिका
6. श्रीमती स्नेही बेगम
7. श्री नयन प्रसाद
8. श्री मणिक बोरा
9. श्री अरूण शर्मा
10. श्री बिमल के. सर्माह
11. श्री चंदन सर्माह
12. श्री श्यामंता फूकन
13. श्री प्रदीप आचार्य
14. श्रीमती मलोबिका बोरा
15. श्री ओईनम सुनील
16. श्रीमती हसीना सलाम
17. श्री न्यामार करबक
18. श्री लाइरवा साया
19. श्री सुशांता बोरगोहैन
20. सुश्री जूरी एस. बोरदोलोई
21. श्री रकीबुद्दीन अहमद
22. सुश्री एल. तिलोतमा
23. श्री जोडिंटलुआंगा
24. श्री प्रैसिएली पियन्यू
25. श्री अंकुर दत्ता

[फा. सं. 809/3/2006-एफ (सी)]
संगीता सिंह, निदेशक (फिल्म)

MINISTRY OF INFORMATION AND BROAD CASTING

New Delhi, the 2nd January, 2007

S.O. 613.—In exercise of the powers conferred by sub-section (1) of Section 5 of the Cinematograph Act, 1952 (37 of 1952), read with rules 7 and 8 of the Cinematograph (Certification) Rules, 1983, the Central Government is pleased to constitute the Guwahati advisory panel of the Central Board of Film Certification and to appoint the following persons as members of the said panel with immediate effect for a period of two years or until further orders, whichever is earlier. This supersedes this Ministry's Notification No. 809/8/2004-F(C) dated 4th February, 2004.

1. Smt. Moloya Goswami
2. Smt. Minati Hazarika
3. Smt. Bibidebi Borbaruah
4. Smt. Anupama Basumatary
5. Smt. Ava Hazarika
6. Smt. Senehi Begum
7. Shri Nayan Prasad
8. Shri Manik Bora
9. Shri Arun Sharma
10. Shri Bimal K. Sarmah
11. Shri Chandan Sarmah
12. Shri Shyamanta Phukan
13. Shri Pradip Acharya
14. Smt. Malobika Bora
15. Shri Oinam Sunil
16. Smt. Hasina Salam
17. Shri Nyamar Karbak
18. Shri Laikha Saya
19. Shri Sushanta Borgohain
20. Ms. Jury S. Bordoloi
21. Shri Rakibuddin Ahmed
22. Ms. L. Tilotama
23. Shri Zodinthuanga
24. Shri Prasielie Pienyu
25. Shri Ankur Datta

[F. No. 809/3/2006-F (C)]

SANGEETA SINGH, Director (Films)

नई दिल्ली, 31 जनवरी, 2007

का.आ. 614.—इस मंत्रालय की दिनांक 12-7-2005 की समसंख्यक अधिसूचना के अनुक्रम में और चलचित्र (प्रमाणन) नियमावली, 1983 के नियम 7 और 8 के साथ पठित चलचित्र अधिनियम, 1952 (1952 का 37) की धारा 5 की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केंद्र सरकार तत्काल प्रभाव से दो वर्षों की अवधि के लिए या अगले आदेशों तक, जो भी पहले हो, केन्द्रीय फिल्म प्रमाणन बोर्ड के बंगलौर सलाहकार पैनल के सदस्य के रूप में श्री के. शिवमूर्ति को नियुक्त करती है ।

[फा. सं. 809/5/2004-एफ (सी)]
संगीता सिंह, निदेशक (फिल्म)

New Delhi, the 31st January, 2007

S.O. 614.—In continuation of this Ministry's Notification of even number dated 12-7-2005 and in exercise of the powers conferred by sub-section (1) of Section 5 of the Cinematograph Act, 1952 (37 of 1952), read with rules 7 and 8 of the Cinematograph (Certification) Rules, 1983, the Central Government is pleased to appoint Shri K. Shivamurthy as member of the Bangalore advisory panel of the Central Board of Film Certification with immediate effect for a period of two years or until further orders, whichever is earlier.

[F. No. 809/5/2004-F (C)]

SANGEETA SINGH, Director (Films)

संचार और सूचना प्रौद्योगिकी मंत्रालय

(सूचना प्रौद्योगिकी विभाग)

नई दिल्ली, 20 फरवरी, 2007

का.आ. 615.—केन्द्रीय सरकार एतद्द्वारा राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम, 1976 के नियम 10 के उपनियम (4) के अनुसरण में, सूचना प्रौद्योगिकी विभाग के निम्नलिखित दो संबद्ध कार्यालयों को अधिसूचित करती है, जिनके 80 प्रतिशत से अधिक कर्मचारियों ने हिन्दी का कार्यसाधक ज्ञान प्राप्त कर लिया है:

(i) मानकीकरण परीक्षण तथा गुणवत्ता प्रमाणन निदेशालय, इलेक्ट्रॉनिक्स निकेतन, 6 सीजीओ कॉम्प्लेक्स, नई दिल्ली-110003।

(ii) राष्ट्रीय सूचना विज्ञान केन्द्र, ए-ब्लॉक, सीजीओ कॉम्प्लेक्स, लोधी रोड, नई दिल्ली-110003 ।

[सं. 7/(2)/2005-हि.अ.]

बी. बी. बहल, संयुक्त निदेशक

MINISTRY OF COMMUNICATIONS AND INFORMATION TECHNOLOGY

(Department of Information Technology)

New Delhi, the 20th February, 2007

S.O. 615.—In pursuance of sub-Rule (4) of the Rule 10 of the Offical Language (use for official purposes of the Union) Rules, 1976, the Central Government hereby notifies the following two attached offices of the Department of Information Technology, more than 80% staff whereof have acquired the working knowledge of Hindi :

(i) Standardization Testing and Quality Control Directorate, Electronics Niketan, 6 CGO Complex, New Delhi-110003.

(ii) National Informatics Center, A-Block, CGO Complex, Lodhi Road, New Delhi-110003.

[No. 7(2)/2005-H.S.]

B. B. BAHL, Jt. Director

जल संसाधन मंत्रालय

नई दिल्ली, 13 फरवरी, 2007

का.आ. 616.–केन्द्रीय सरकार राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम, 1976 के नियम 10 के उप नियम (4) के अनुसरण में, प्रबोधन एवं मूल्यांकन निदेशालय, केन्द्रीय जल आयोग, वड़ोदरा को, जिसके 80 प्रतिशत कर्मचारी वृन्द ने हिन्दी का कार्यसाधक ज्ञान प्राप्त कर लिया है, अधिसूचित करती है:—

[सं. 1/1/2005-हिन्दी]

राजकुमारी देव, निदेशक (रा.भा.)

MINISTRY OF WATER RESOURCES

New Delhi, the 13th February, 2007

S.O. 616.—In pursuance of sub-Rule (4) of the Rule 10 of the Offical Language (use for official purposes of the Union) the Central Government hereby notifies Monitoring and Appraisal Directorate, Central Water Commission, Vadodra-380002 the 80% staff whereof have acquired working knowledge of Hindi :

[No. 1/1/2005-Hindi]

RAJKUMARI DAVE, Director (OL)

उपभोक्ता मामले, खाद्य और सार्वजनिक वितरण मंत्रालय

(उपभोक्ता मामले विभाग)

भारतीय मानक ब्यूरो

नई दिल्ली, 19 फरवरी, 2007

का.आ. 617.—भारतीय मानक ब्यूरो नियम 1987 के नियम 7 के उपनियम (1) के खंड (ख) के अनुसरण में भारतीय मानक ब्यूरो एतद् द्वारा अधिसूचित करता है कि जिन भारतीय मानकों के विवरण नीचे अनुसूची में दिए गए हैं वे स्थापित हो गए है:—

अनुसूची

क्रम सं.	स्थापित भारतीय मानक (कों) की संख्या, वर्ष और शीर्षक	नये भारतीय मानक द्वारा अतिक्रमित भारतीय मानक अथवा मानकों, यदि कोई हो, की संख्या और वर्ष	स्थापित तिथि
(1)	(2)	(3)	(4)
1	आई एस/आई एस ओ 105 -ए05 : 1996 वस्त्रादि-रंग के पक्केपन के परीक्षण भाग ए05 ग्रे स्केल रेटिंग को ज्ञात करने के लिए रंग में परिवर्तन का उपकरणिक आंकलन	–	फरवरी 2007

इस भारतीय मानक की प्रतियां भारतीय मानक ब्यूरो, मानक भवन, 9, बहादुर शाह जफर मार्ग, नई दिल्ली-110 002, क्षेत्रीय कार्यालयों : नई दिल्ली, कोलकाता, चण्डीगढ़, चेन्नई, मुम्बई तथा शाखा कार्यालयों अहमदाबाद, बंगलौर, भोपाल, भुवनेश्वर, कोयम्बतूर, गुवाहाटी, हैदराबाद, जयपुर, कानपुर, नागपुर, पटना, पूणे तथा तिरूवनन्तापुरम में बिक्री हेतु उपलब्ध हैं।

[संदर्भ : टीएक्सडी/जी25]

एम. एस. वर्मा, निदेशक एवं प्रमुख (टीएक्सडी)

MINISTRY OF CONSUMER AFFAIRS, FOOD AND PUBLIC DISTRIBUTION

(Department of Consumer Affairs)

BUREAU OF INDIAN STANDARDS

New Delhi, the 19th February, 2007

S.O. 617.—In pursuance of clause (b) of Sub-rule (1) of Rule 7 of the Bureau of Indian Standards Rules, 1987, the Bureau of Indian Standards hereby notifies that the Indian Standards, particulars of which are given in the

Schedule hereto annexed have been established on the date indicated against each :—

SCHEDULE

Sl. No.	No & Year of the Indian Standards Established	No. & year of Indian Standards, if any Superseded by the New Indian Standard	Date of Established
(1)	(2)	(3)	(4)
1.	IS/ISO 105-A05: 1996 Textiles-Tests for colour fastness Part A05 Instrumental assessment of change in colour for determination of grey scale rating	Nil	February, 2007

Copy of these Standards are available for sale with the Bureau of Indian Standards, Manak Bhavan, 9, Bahadur Shah Zafar Marg, New Delhi-110002 and Regional Offices: New Delhi, Kolkata, Chandigath, Chennai, Mumbai and also Branch Offices : Ahmedabad, Bangalore, Bhopal, Bhubaneshwar, Coimbatore, Guwahati, Hyderabad, Jaipur, Kanpur, Nagpur, Patna, Pune, Thiruvananthapuram.

[Ref. TXD/G-25]

M. S. VERMA, Director & Head (Textiles)

नई दिल्ली, 20 फरवरी, 2007

का.आ. 618.—भारतीय मानक ब्यूरो नियम, 1987 के नियम 7 के उप-नियम (1) के खंड (ख) के अनुसरण में भारतीय मानक ब्यूरो एतद्द्वारा अधिसूचित करता है कि जिन भारतीय मानकों के विवरण नीचे अनुसूची में दिए गए हैं वे स्थापित हो गए हैं:—

अनुसूची

क्रम सं.	स्थापित भारतीय मानक(कों) की संख्या वर्ष और शीर्षक	नये भारतीय मानक द्वारा अतिक्रमित भारतीय मानक अथवा मानकों, यदि कोई हो, की संख्या और वर्ष	स्थापित तिथि
(1)	(2)	(3)	(4)
1.	आई एस 6094 (भाग 1) : 2006/आईएसओ 4026 : 2003 षटकोणी सॉकेट सेट पेंच-भाग 1 सपाट पवाइंट वाले (तीसरा पुनरीक्षण)	–	दिसंबर, 2006
2.	आईएस 6094 (भाग 2) : 2006/आईएसओ 4027 : 2003 षटकोणी सॉकेट सेट पेंच-भाग 2 शंकु प्वाइंट वाले (तीसरा पुनरीक्षण)		दिसंबर, 2006
3.	आईएस 6094 (भाग 3) : 2006/आईएसओ 4028 : 2003 षटकोणी सॉकेट सेट पेंच-भाग 3 डॉग प्वाइंट वाले (तीसरा पुनरीक्षण)		दिसंबर, 2006
4.	आईएस 8930 (भाग 4) : 2006/आईएसओ 10209-4 : 1999 तकनीकी उत्पाद प्रलेखन– परिभाषिक शब्दावली-भाग 4 निर्माण प्रलेखन संबंधी शब्द		दिसंबर, 2006
5	आईएस 9609 (भाग 1) : 2006/आईएसओ 3098-2 : 2000 तकनीकी उत्पाद प्रलेखन– अक्षरांकन-भाग 1 लैटिन वर्णमाला, संख्याएं और चिन्ह (दूसरा पुनरीक्षण)		दिसंबर, 2006
6.	आईएस 9609 (भाग 2) : 2006/आईएसओ 3098-3 : 2000 तकनीकी उत्पाद प्रलेखन– अक्षरांकन-भाग 2 ग्रीक वर्णमाला (पहला पुनरीक्षण)		दिसंबर, 2006
7.	आईएस 9609 (भाग 3) : 2006/आईएसओ 3098-4 : 2000 तकनीकी उत्पाद प्रलेखन– अक्षरांकन-भाग 3 लैटिन वर्णमाला के लिए स्वरभेद और विशेष चिन्ह (पहला पुनरीक्षण)		दिसंबर, 2006
8.	आईएस 9609 (भाग 4) : 2006/आईएसओ 3098-6 : 2000 तकनीकी उत्पाद प्रलेखन– अक्षरांकन–भाग 4 साइरलिक वर्णमाला (पहला पुनरीक्षण)		दिसंबर, 2006
9.	आईएस 10714 (भाग 23) : 2006/आईएसओ 128-23:1999 तकनीकी ड्राइंग-प्रस्तुतिकरण के सामान्य सिद्धांत-भाग 23 निर्माण ड्राइंग पर रेखाएँ		दिसंबर, 2006
10.	आईएस 15726; 2006/आईएस	आईएस/	दिसंबर 2006

(1)	(2)	(3)	(4)
	ओ 13715 : 2000 तकनीकी ड्राईंग–अपरिभाषित आकार के किनारे–पारिभाषिक शब्दावली और संकेत	आईएसओ 13715 : 1994	

इन भारतीय मानकों की प्रतियाँ भारतीय मानक ब्यूरो, मानक भवन, 9, बहादुर शाह जफर मार्ग, नई दिल्ली-110002, क्षेत्रीय कार्यालयों : नई दिल्ली, कोलकाता, चण्डीगढ़, चेन्नई, मुम्बई तथा शाखा कार्यालयों : अहमदाबाद, बंगलौर, भोपाल, भुवनेश्वर, कोयम्बतूर, गुवाहाटी, हैदराबाद, जयपुर, कानपुर, पटना, पुणे तथा तिरूवनन्तापुरम में बिक्री हेतु उपलब्ध हैं ।

[संदर्भ : पीजीडी/जी-3.5]

पी. सी. जोशी, वैज्ञानिक 'ई' एवं प्रमुख (पीजीडी)

New Delhi, the 20th February, 2007

S.O. 618.—In pursuance of clause (b) of sub-rule (1) of Rule 7 of the Bureau of Indian Standards Rules, 1987, the Bureau of Indian Standards hereby notifies that the Indian Standards, particulars of which are given in the Schedule hereto annexed have been established on the date indicated against each :—

SCHEDULE

Sl. No.	No. & Year of the Indian Standards Established	No. & year of Indian Standards, if any, Superseded by the New Indian Standard	Date of Established
(1)	(2)	(3)	(4)
1.	IS 6094 (Part 1) : 2006/ ISO 4026 : 2003 Hexagon socket set screws— Part 1 With flat point (*Third Revision*)	Nil	December, 2006
2.	IS 6094 (Part 2) : 2006/ ISO 4027 : 2003 Hexagon socket set screws— Part 2 With cone point (*Third Revision*)		December, 2006
3.	IS 6094 (Part 3) : 2006/ ISO 4028 : 2003 Hexagon socket set screws— Part 3 With dog point (*Third Revision*)		December, 2006
4.	IS 8930 (Part 4) : 2006/ ISO 10209-4:1999 Technical product documentation-Vocabulary-Part 4 Terms relating to construction documentation		December, 2006
5.	IS 9609 (Part 1) : 2006/ ISO 3098-2: 2000 Technical product documentation—Lettering— Part 1 Latin alphabet, numerals and marks (*Second Revision*)		December, 2006
6.	IS 9609 (Part 2) : 2006/ ISO 3098-3 : 2000 Technical product documentation—Lettering— Part 2 Greek alphabet (*First Revision*)		December, 2006
7.	IS 9609 (Part 3) : 2006/ ISO 3098-4 : 2000 Technical product documentation—Lettering— Part 3 Diacritical and particular marks for the latim alphabet (*First Revision*)		December, 2006
8.	IS 9609 (Part 4) : 2006/ ISO 3098-6 : 2000 Technical product documentation—Lettering— Part 4 Cyrillic alphabet alphabet (*First Revision*)		December, 2006
9.	IS 10714 (Part 23) : 2006/ ISO 128-23 : 1999 Technical drawings- General principles of presentation—Part 23 Lines on construction drawings		December, 2006
10.	IS 15726 : 2006/ISO 13715 : 2000 Technical drawings— Edges of undefined shape— Vocabulary and indications—	IS/ISO 13715 : 1994	December, 2006

Copy of thses Standards is available for sale with the Bureau of Indain Stadards, Manak Bhavan, 9, Bahadur Shah Zafar Marg, New Delhi-110002 and Regional Offices : New Delhi, Kolkata, Chandigarh, Chennai, Mumbai and also Branch Offices : Ahmedabad, Bangalore, Bhopal, Bhubaneshwar, Coimbatore, Guwahati, Hyderabad, Jaipur, Kanpur, Nagpur, Patna, Pune, Thiruvananthapuram.

[Ref. PGD/G-3.5]

P. C. JOSHI, Scientist 'E' & Head (PGD)

पेट्रोलियम और प्राकृतिक गैस मंत्रालय

नई दिल्ली, 20 फरवरी, 2007

का.आ. 619.—जबकि केन्द्रीय सरकार को यह प्रतीत होता है कि लोकहित में यह आवश्यक है कि जोरहाट नगर के नागरिकों को प्राकृतिक गैस आपूर्ति के लिये मरियानी से जोरहाट नगर, जिला जोरहाट तक आसाम गैस कम्पनी लिमिटेड, दुलियाजान द्वारा पाइपलाइन बिछायी जानी चाहिए ।

और अत: प्रतीत होता है कि ऐसी लाइनों को बिछाने के प्रयोजन के लिये इसके साथ उपबद्ध अनुसूची में वर्णित भूमि में उपयोग का अधिकार अर्जित करना आवश्यक है ।

अत: अब, पेट्रोलियम पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार उसमें उपयोग का अधिकार अर्जित करने का अपना आशय एतद्द्वारा घोषित करती है ।

उक्त भूमि में हितबद्ध कोई व्यक्ति उस भूमि के नीचे पाइपलाइन बिछाने के लिये आपत्ति और सुझाव सक्षम अधिकारी नामत: जिला उपायुक्त जोरहाट, असम को इस अधिसूचना की तारीख से 21 दिनों के भीतर कर सकता है ।

और, ऐसी आपत्ति और सुझाव देने वाला हर व्यक्ति यह भी बताएगा कि क्या वह अपनी सुनवाई व्यक्तिगत रूप से चाहता है अथवा किसी विधि व्यवसायी के माध्यम से ।

अनुसूची

जिला : जोरहाट **राज्य : असम**

क्रम सं.	गाँव का नाम	सर्कल	मोजा	पट्टा नं.	दाग नं.	क्षेत्रफल		
						बीघा	कट्टा	लुसा
1	2	3	4	5	6	7	8	9
1.	खरिकटीया गाँव खण्ड-III	मरियानी	कटनी गाँव	सरकार	139	1	1	8
				एकसना	140	0	1	17
				सरकार	421	0	0	14
				सरकार	459	0	0	16
				कुल :		1	4	15
2.	घरफलीया गाँव	मरियानी	कटनी गाँव	मियादी पट्टा नं. 36	54	0	1	6
				मियादी पट्टा नं. 11	55	0	2	0
				मियादी पट्टा नं. 34	57	0	1	13
				मियादी पट्टा नं. 10	58	0	0	16
				मियादी पट्टा नं. 38	59	0	0	16
				मियादी पट्टा नं. 10	63	0	0	2
				मियादी पट्टा नं. 52	64	0	2	2
				मियादी पट्टा नं. 49	65	0	2	15
				मियादी पट्टा नं. 31	66	0	0	2
				मियादी पट्टा नं. 46	68	0	1	14
				मियादी पट्टा नं. 35	109	0	0	18
				मियादी पट्टा नं. 39	110	0	1	0
				मियादी पट्टा नं. 12	111	0	0	15

1	2	3	4	5	6	7	8	9
				मियादी पट्टा नं. 24	112	0	1	13
				मियादी पट्टा नं. 9	113	0	2	5
				मियादी पट्टा नं. 33	114	0	2	0
				मियादी पट्टा नं. 9	116	0	0	11
				मियादी पट्टा नं. 27	117	0	2	11
				मियादी पट्टा नं. 44	118	0	0	2
				मियादी पट्टा नं. 32	119	0	0	5
				मियादी पट्टा नं. 40	122	1	2	3
				मियादी पट्टा नं. 19	123	0	1	16
				कुल :		6	4	5
3.	डेका गाँव	मरियानी	कटनी गाँव	मियादी पट्टा नं. 83	48	0	0	16
				मियादी पट्टा नं. 83	50	0	0	3
				कुल :		0	0	19
4.	डकलंगीया चाह बागिचा	मरियानी	कटनी गाँव	सरकार	171	0	0	3
				एकसना-2	174	0	0	13
				चाह म्यादी 1	175	1	1	12
				सरकार	179	0	2	8
				सरकार	191	1	3	1
				एकसना-2	274	2	0	15
				सरकार	291	0	0	12
				कुल :		5	4	4

[फा. सं. ओ-12016/1/2004-ओ.एन.जी.डी-IV]

ओ. पी. बनवारी, अवर सचिव

MINISTRY OF PETROLEUM AND NATURAL GAS

New Delhi, the 20th February, 2007

S.O. 619.—Whereas it appears to the Central Government that it is necessary for supply of natural gas to the public of Jorhat town in the district of Jorhat, Assam, pipeline should be laid from Moriani to Jorhat town.

And Whereas it appears that for the purpose of laying such pipeline it is necessary to acquire the Right of User in Land described in the schedule annexed hereto.

Now, therefore, in exercise of the powers conferred by Sub-section (1) of Section 3 of the Petroleum Pipeline (Acquisition of Right of User in Land) Act, 1962 (50 of 1962) the Central Government hereby declares its intention to acquire the right of user therein.

Any person interested in the said land may within 21 days from the date of this notification send objections & suggestion to the laying of the pipeline under the land to the Competent Authority, namely the Deputy Commissioner, Jorhat District, Jorhat, Assam.

And every person making such objections and suggestions may also state whether he wishes to be heard in person or by a legal practitioner.

SCHEDULE

District—Jorhat **State—Assam**

Sl. No.	Name of Village	Circle	Mouza	Patta No.	Dag No.	Area		
						B	K	L
1	2	3	4	5	6	7	8	9
1.	Kharikatia Village Part-III	Moriani	Katani gaon	Waste land	139	1	1	8
				Annual	140	0	1	17
				Waste land	421	0	0	14
				Waste land	459	0	0	16
				Total Area		**1**	**4**	**15**
2.	Gharpholia Gaon	Moriani	Katani gaon	P.P. No. 36	54	0	1	6
				P.P. No. 11	55	0	2	0
				P.P. No. 34	57	0	1	13
				P.P. No. 10	58	0	0	16
				P.P. No. 38	59	0	0	16
				P.P. No. 10	63	0	0	2
				P.P. No. 52	64	0	2	2
				P.P. No. 49	65	0	2	15
				P.P. No. 31	66	0	0	2
				P.P. No. 46	68	0	1	14
				P.P. No. 35	109	0	0	18
				P.P. No. 39	110	0	1	0
				P.P. No. 12	111	0	0	15
				P.P. No. 24	112	0	1	13
				P.P. No. 9	113	0	2	5
				P.P. No. 33	114	0	2	0
				P.P. No. 9	116	0	0	11
				P.P. No. 27	117	0	2	11
				P.P. No. 44	118	0	0	2
				P.P. No. 32	119	0	0	5
				P.P. No. 40	122	1	2	3
				P.P. No. 19	123	0	1	16
				Total Area		**6**	**4**	**5**
3.	Deka Gaon	Moriani	Katani gaon	P.P. No. 83	48	0	0	16
				P.P. No. 83	50	0	0	3
				Total Area		**0**	**0**	**19**
4.	Duklongia Chah Bagicha	Moriani	Katani gaon	Waste land	171	0	0	3
				Annual-2	174	0	0	13
				T.P. No. 1	175	1	1	12
				Waste land	179	0	2	8
				Waste land	191	1	3	1
				Annual-2	274	2	0	15
				Waste land	291	0	0	12
				Total Area		**5**	**4**	**4**

[F. No. O-12016/1/2004-ONGD-IV]

O. P. BANWARI, Under Secy.

नई दिल्ली, 26 फरवरी, 2007

का.आ. 620.—केन्द्रीय सरकार को लोकहित में यह आवश्यक प्रतीत होता है कि राजस्थान राज्य में विजयपुर-कोटा एवं स्पर पाइपलाईन परियोजना अंतर्गत गेल (इण्डिया) लिमिटेड द्वारा गैस के परिवहन के लिए एक पाइपलाईन बिछायी जानी चाहिए ;

और, केन्द्रीय सरकार को उक्त पाइपलाईन बिछाने के प्रयोजन के लिए यह आवश्यक प्रतीत होता है कि उस भूमि में, जिसमें उक्त पाइपलाईन बिछाए जाने का प्रस्ताव है और जो इस अधिसूचना से संलग्न अनुसूची में वर्णित है, उपयोग के अधिकार का अर्जन किया जाए ;

अत: अब, केन्द्रीय सरकार, पेट्रोलियम और खनिज पाइपलाईन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 3 की उप धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, उस भूमि में उपयोग के अधिकार का अर्जन करने के अपने आशय की घोषणा करती है;

कोई व्यक्ति, जो उक्त अनुसूची में वर्णित भूमि में हितबद्ध है, उस तारीख से जिसको उक्त अधिनियम की धारा 3 की उप धारा (1) के अधीन भारत के राजपत्र में यथा प्रकाशित इस अधिसूचना की प्रतियाँ साधारण जनता को उपलब्ध करा दी जाती है, इक्कीस दिन के भीतर, भूमि के नीचे पाइपलाईन बिछाए जाने के संबंध में, श्री एस.सी. जैन, सक्षम प्राधिकारी, गेल (इण्डिया) लिमिटेड, चतुर्थ तल, क्रिस्टल मॉल, ए-3, सवाई जय सिंह राजमार्ग, बनीपार्क, जयपुर-302016 (राजस्थान) को लिखित रूप में आक्षेप भेज सकेगा।

अनुसूची

जिला	तहसील	गाँव	सर्वे नं.	आर.ओ.यू. अर्जित करने के लिए क्षे. (हेक्ट. में)
1	2	3	4	5
बारां	छबड़ा	बटावदापार	950	0.6050
			929	0.4040
			931	0.0200
			916	0.0260
			917	0.2820
			योग	**1.3370**
बारां	अन्ता	तामखेडा	54	0.1530
			83	0.0500
			52	0.0880
			50	0.0080
			51	0.0800
			योग	**0.3790**
बारां	अन्ता	अन्ता	546	0.0750
			553	0.0180
			552	0.0450
			551	0.1680
			550	0.0200
			योग	**0.3260**
बारां	अन्ता	पलायथा	1221	0.7374
			योग	**0.7374**

[फा. सं. एल-14014/16/2006-जी.पी.]

एस. बी. मण्डल, अवर सचिव

New Delhi, the 26th February, 2007

S.O. 620.—Whereas it appears to the Central Government that it is necessary in the public interest that for the transportation of natural gas through Vijaipur—Kota and spur pipeline project in the State of Rajasthan, a pipeline should be laid by GAIL (India) Limited.;

And, whereas it appears to the Central Government that for the purpose of laying the said pipeline, it is necessary to acquire the Right of User in Land the under which the said pipeline is proposed to be laid and which is described in the Schedule annexed to this notification;

Now, therefore, in exercise of the powers conferred by sub-section (1) of Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962, the Central Government hereby declares its intention to acquire the right of user therein.

Any person interested in the land described in the said Schedule may, within twenty one days from the date on which the copies of the notification issued under Sub-section (1) of Section 3 of the said Act, as published in the Gazette of India are made available to the general public, object in writing to the laying of the pipeline under the land to Shri S. C. Jain, Competent Authority, GAIL (India) Limited, 4th Floor, Crystal Mall, A-3, Sawai Jai Singh Highway, Banipark, Jaipur-302016 (Rajasthan).

SCHEDULE

District	Tahsil	Village	Survay No.	Area to be acquired for R.O.U. (in Hect.)
1	2	3	4	5
Baran	Chabra	Batavdapar	950	0.6050
			929	0.4040
			931	0.0200
			916	0.0260
			917	0.2820
			Total	**1.3370**
Baran	Anta	Tamkheda	54	0.1530
			83	0.0500
			52	0.0880
			50	0.0080
			51	0.0800
			Total	**0.3790**
Baran	Anta	Anta	546	0.0750
			553	0.0180
			552	0.0450
			551	0.1680
			550	0.0200
			Total	**0.3260**
Baran	Anta	Plaita	1221	0.7374
			Total	**0-7374**

[F. No. L-14014/16/2006-G.P.]

S. B. MANDAL, Under Secy.

नई दिल्ली, 27 फरवरी, 2007

का. आ. 621.— केन्द्रीय सरकार को लोकहित में यह आवश्यक प्रतीत होता है कि मुन्द्रा (गुजरात) से दिल्ली तक पेट्रोलियम उत्पादों के परिवहन के लिए हिन्दुस्तान पेट्रोलियम कॉर्पोरेशन लिमिटेड द्वारा एक पाइपलाइन बिछाई जानी चाहिए ;

और केन्द्रीय सरकार को ऐसी पाइपलाइन बिछाने के प्रयोजन के लिए यह आवश्यक प्रतीत होता है कि ऐसी भूमि में, जो इससे उपाबद्ध अनुसूची में वर्णित है, जिसमें उक्त पाइपलाइन बिछाए जाने का प्रस्ताव है, उपयोग के अधिकार का अर्जन किया जाए ;

अतः अब, केन्द्रीय सरकार, पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, उस भूमि में उपयोग के अधिकार का अर्जन करने के अपने आशय की घोषणा करती है ;

कोई व्यक्ति, जो उक्त अनुसूची में वर्णित भूमि में हितबद्ध है, उस तारीख से जिसको इस अधिसूचना से युक्त भारत के राजपत्र की प्रतियाँ साधारण जनता को उपलब्ध करा दी जाती हैं, इक्कीस दिन के भीतर भूमि के नीचे पाइपलाइन बिछाए जाने के लिए उसमें उपयोग के अधिकार के अर्जन के सम्बन्ध में श्री शिवदत्त गौड़, सक्षम प्राधिकारी, मुन्द्रा-दिल्ली पेट्रोलियम उत्पाद पाइपलाइन, हिन्दुस्तान पेट्रोलियम कॉर्पोरेशन लिमिटेड, डी-7 लालबहादुर नगर (पूर्व) क्लार्क्स आमेर होटल के सामने, जवाहरलाल नेहरु मार्ग, मालवीय नगर, जयपुर-302017(राजस्थान) को लिखित रुप में आक्षेप भेज सकेगा।

अनुसूची

तहसील : पीसाँगन		जिला : अजमेर	राज्य : राजस्थान		
क्रम सं.	गाँव का नाम	खसरा सं.	क्षेत्रफल		
			हेक्टेयर	एयर	वर्ग मीटर
1	2	3	4	5	6
1.	जेठाना	3063	0	05	00

[फा. सं. आर-31015/57/2004-ओ.आर.-II]

ए. गोस्वामी, अवर सचिव

New Delhi, the 27th February, 2007

S. O. 621.—Whereas it appears to the Central Government that it is necessary in the public interest that for the transportation of petroleum products from Mundra (Gujarat) to Delhi, a pipeline should be laid by Hindustan Petroleum Corporation Limited;

And whereas it appears to the Central Government that for the purpose of laying such pipeline, it is necessary to acquire the right of user in land under which the said pipeline is proposed to be laid and which is described in the Schedule annexed hereto;

Now, therefore, in exercise of powers conferred by sub-section (1) of section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein;

Any person, interested in the land described in the said Schedule may, within twenty one days from the date on which copies of the Gazette of India containing this notification are made available to the public, object in writing to the acquisition of the right of user therein for laying of the pipeline under the land to Shri Shivdutt Gaur, Competent Authority, Mundra-Delhi Petroleum Product Pipeline, Hindustan Petroleum Corporation Limited, D-7, Lal Bahadur Nagar (East), Opp. Clarks Amer Hotel,Jawaharlal Nehru Marg, Malviya Nagar, Jaipur – 302017 (Rajasthan)

SCHEDULE

Tehsil : PISANGAN		**District : AJMER**			**State : RAJASTHAN**
Sr. No.	Name of the Village	Khasara No.	Area		
			Hectare	Are	Sq.mtr.
1	2	3	4	05	06
1.	**JETHANA**	3063	0	05	00

[F. No. R-31015/57/2004-O.R.-II]
A. GOSWAMI, Under Secy.

नई दिल्ली, 27 फरवरी, 2007

का. आ. 622.—केन्द्रीय सरकार को लोकहित में यह आवश्यक प्रतीत होता है कि मुन्द्रा (गुजरात) से दिल्ली तक पेट्रोलियम उत्पादों के परिवहन के लिए हिन्दुस्तान पेट्रोलियम कॉर्पोरेशन लिमिटेड द्वारा एक पाइपलाइन बिछाई जानी चाहिए ;

और केन्द्रीय सरकार को ऐसी पाइपलाइन बिछाने के प्रयोजन के लिए यह आवश्यक प्रतीत होता है कि ऐसी भूमि में, जो इससे उपाबद्ध अनुसूची में वर्णित है, जिसमें उक्त पाइपलाइन बिछाए जाने का प्रस्ताव है, उपयोग के अधिकार का अर्जन किया जाए ;

अत: अब, केन्द्रीय सरकार, पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, उस भूमि में उपयोग के अधिकार का अर्जन करने के अपने आशय की घोषणा करती है ;

कोई व्यक्ति, जो उक्त अनुसूची में वर्णित भूमि में हितबद्ध है, उस तारीख से जिसको इस अधिसूचना से युक्त भारत के राजपत्र की प्रतियाँ साधारण जनता को उपलब्ध करा दी जाती हैं, इक्कीस दिन के भीतर भूमि के नीचे पाइपलाइन बिछाए जाने के लिए उसमें उपयोग के अधिकार के अर्जन के सम्बन्ध में श्री शिवदत्त गौड़, सक्षम प्राधिकारी, मुन्द्रा-दिल्ली पेट्रोलियम उत्पाद पाइपलाइन परियोजना, हिन्दुस्तान पेट्रोलियम कॉर्पोरेशन लिमिटेड, डी-7 लालबहादुर नगर (पूर्व), क्लार्क्स आमेर होटल के सामने, जवाहरलाल नेहरु मार्ग, मालवीय नगर, जयपुर-302017(राजस्थान) को लिखित रूप में आक्षेप भेज सकेगा।

अनुसूची

तहसील : विराटनगर		जिला : जयपुर	राज्य : राजस्थान		
क्रम सं.	गाँव का नाम	खसरा सं.	क्षेत्रफल		
			हेक्टेयर	एयर	वर्ग मीटर
1	2	3	4	5	6
1.	जयसिंहपुरा	1457	0	06	36
		1455	0	00	19
		1447	0	00	36
		1434	0	01	28

[फा. सं. आर-31015/58/2004-ओ.आर.-II]

ए. गोस्वामी, अवर सचिव

New Delhi, the 27th February, 2007

S. O. 622.— Whereas it appears to the Central Government that it is necessary in the public interest that for the transportation of petroleum products from Mundra (Gujarat) to Delhi, a pipeline should be laid by Hindustan Petroleum Corporation Limited;

And whereas it appears to the Central Government that for the purpose of laying such pipeline, it is necessary to acquire the right of user in land under which the said pipeline is proposed to be laid and which is described in the Schedule annexed hereto;

Now, therefore, in exercise of powers conferred by sub-section (1) of section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein;

Any person, interested in the land described in the said Schedule, may, within twenty one days from the date on which copies of the Gazette of India containing this notification are made available to the public, object in writing to the acquisition of the right of user therein for laying of the pipeline under the land to Shri Shivdutt Gaur, Competent Authority, Mundra-Delhi Petroleum Product Pipeline Project, Hindustan Petroleum Corporation Limited, D-7, Lal Bahadur Nagar (East), Opp. Clarks Amer Hotel,Jawaharlal Nehru Marg, Malviya Nagar, Jaipur –,302017 (Rajasthan)

SCHEDULE

Tehsil : VIRATNAGAR		District : JAIPUR	State : RAJASTHAN		
Sr. No.	Name of the Village	Khasara No.	Area		
			Hectare	Are	Sq.mtr.
1	2	3	4	5	6
1.	JAISINGHPURA	1457	0	06	36
		1455	0	00	19
		1447	0	00	36
		1434	0	00	28

[F. No. R-31015/58/2004-O.R.-II]
A. GOSWAMI, Under Secy.

नई दिल्ली, 27 फरवरी, 2007

का. आ. 623.—केन्द्रीय सरकार को लोकहित में यह आवश्यक प्रतीत होता है कि मुन्द्रा (गुजरात) से दिल्ली तक पेट्रोलियम उत्पादों के परिवहन के लिए हिन्दुस्तान पेट्रोलियम कॉर्पोरेशन लिमिटेड द्वारा एक पाइपलाइन बिछाई जानी चाहिए ;

और केन्द्रीय सरकार को ऐसी पाइपलाइन बिछाने के प्रयोजन के लिए यह आवश्यक प्रतीत होता है कि ऐसी भूमि में, जो इस से उपाबद्ध अनुसूची में वर्णित है, जिसमें उक्त पाइपलाइन बिछाऐ जाने का प्रस्ताव है, उपयोग के अधिकार का अर्जन किया जाए ;

अत: अब, केन्द्रीय सरकार, पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, उस भूमि में उपयोग के अधिकार का अर्जन करने के अपने आशय की घोषणा करती है ;

कोई व्यक्ति, जो उक्त अनुसूची में वर्णित भूमि में हितबद्ध है, उस तारीख से जिसको इस अधिसूचना से युक्त भारत के राजपत्र की प्रतियाँ साधारण जनता को उपलब्ध करा दी जाती हैं, इक्कीस दिन के भीतर भूमि के नीचे पाइपलाइन बिछाए जाने के लिए उसमें उपयोग के अधिकार के अर्जन के सम्बन्ध में श्री शिवदत्त गौड़, सक्षम प्राधिकारी, मुन्द्रा-दिल्ली पेट्रोलियम उत्पाद पाइपलाइन, हिन्दुस्तान पेट्रोलियम कॉर्पोरेशन लिमिटेड, डी-7, लालबहादुर नगर (पूर्व), क्लार्क्स आमेर होटल के सामने, जवाहरलाल नेहरु मार्ग, मालवीय नगर, जयपुर-302017(राजस्थान) को लिखित रुप में आक्षेप भेज सकेगा।

अनुसूची

तहसील : आबू रोड		जिला : सिरोही	राज्य : राजस्थान		
क्रम सं.	गाँव का नाम	खसरा सं.	क्षेत्रफल		
			हेक्टेयर	एयर	वर्ग मीटर
1	2	3	4	5	6
1.	दानवाव	237	0	08	20
		234	0	06	84
		239	0	18	36
		252मिन01	0	07	92
		272/252	0	06	96

[फा. सं. आर-31015/44/2004-ओ.आर.-II]

ए. गोस्वामी, अवर सचिव

New Delhi, the 27th February, 2007

S. O. 623.—Whereas it appears to the Central Government that it is necessary in the public interest that for the transportation of petroleum products from Mundra (Gujarat) to Delhi, a pipeline should be laid by Hindustan Petroleum Corporation Limited;

And whereas it appears to the Central Government that for the purpose of laying such pipeline, it is necessary to acquire the right of user in land under which the said pipeline is proposed to be laid and which is described in the Schedule annexed hereto;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Governrnent hereby declares its intention to acquire the right of user therein;

Any person, interested in the land described in the said Schedule may, within twenty one days from the date on which copies of the Gazette of India containing this notification are made available to the public, object in writing to the acquisition of the right of user therein for laying of the pipeline under the land to Shri Shivdutt Gaur, Competent Authority, Mundra-Delhi Petroleum Product Pipeline, Hindustan Petroleum Corporation Limited, D-7, Lal Bahadur Nagar (East), Opp. Clarks Amer Hotel,Jawaharlal Nehru Marg, Malviya Nagar, Jaipur – 302017 (Rajasthan).

SCHEDULE

Tehsil : ABU ROAD		**District : SIROHI**	**State : RAJASTHAN**		
Sr. No	Name of the Village	Khasara No.	Area		
			Hectare	Are	Sq.mtr.
1	2	3	4	5	6
1.	**DANWAV**	237	0	08	20
		234	0	06	84
		239	0	18	36
		252Min01	0	07	92
		272/252	0	06	96

[F. No. R-31015/44/2004-O.R.-II]
A. GOSWAMI, Under Secy.

नई दिल्ली, 27 फरवरी, 2007

का. आ. 624.—केन्द्रीय सरकार ने पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) (जिसे इसमें इसके पश्चात उक्त अधिनियम कहा गया है) की धारा 3 की उपधारा (1) के अधीन जारी की गई भारत सरकार के पेट्रोलियम और प्राकृतिक गैस मंत्रालय की अधिसूचना संख्या का.आ. 4250 तारीख 30 अक्टूबर, 2006, जो भारत के राजपत्र तारीख 4 नवम्बर, 2006 में प्रकाशित की गई थी, द्वारा उस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में मध्यप्रदेश राज्य में मांगल्या (इंदौर) संस्थापन से हरियाणा राज्य में पियाला तथा दिल्ली राष्ट्रीय राजधानी क्षेत्र में बिजवासन तक पेट्रोलियम उत्पादों के परिवहन के लिए मुंबई–मांगल्या पाइपलाइन विस्तार परियोजना के माध्यम से भारत पेट्रोलियम कारपोरेशन लिमिटेड द्वारा पाइपलाइन बिछाने के प्रयोजन के लिए उपयोग के अधिकार का अर्जन के अपने आशय की घोषणा की थी ;

और उक्त राजपत्र अधिसूचना की प्रतियां जनता को तारीख 27 नवम्बर, 2006 को उपलब्ध करा दी गई थी ;

और सक्षम प्राधिकारी ने, उक्त अधिनियम की धारा 6 की उपधारा (1) के अधीन, केन्द्रीय सरकार को अपनी रिपोर्ट दे दी है ;

और केन्द्रीय सरकार ने, उक्त रिपोर्ट पर विचार करने के पश्चात, और यह समाधान हो जाने पर कि उक्त भूमि पाइपलाइन बिछाने के लिये अपेक्षित है, उसमें उपयोग के अधिकार का अर्जन करने का विनिश्चिय किया है ;

अतः अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 6 की उपधारा (1) द्वारा प्रदत्त शक्तियो का प्रयोग करते हुए, यह घोषणा करती है कि इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में पाइपलाइन बिछाने के लिए उपयोग के अधिकार का अर्जन किया जाता है;

और केन्द्रीय सरकार उक्त अधिनियम की धारा 6 की उपधारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह निदेश देती है कि उक्त भूमि में उपयोग का अधिकार इस घोषणा के प्रकाशन की तारीख को केन्द्रीय सरकार में निहित होने की बजाए, सभी विल्लंगमों से मुक्त, भारत पेटोलियम कॉरपोरेशन लिमिटेड में निहित होगा !

अनुसूची

तहसील : सुसनेर जिला : शाजापुर राज्य : मध्यप्रदेश

क्र.	ग्राम का नाम	सर्वे नंबर	क्षेत्रफल हैक्टेयर में
1	2	3	4
1	बामनिया खेड़ी	275	0.0108
		470	0.1350
		466	0.0324
		465	0.0540
2	मैना	1756	0.0810
		1999	0.1836
		2027	0.0324
3	बोरखेड़ी	71	0.0630
4	कादमी	237	0.0432

[फा. सं. आर-31015/71/2004-ओ.आर.-II]

ए. गोस्वामी, अवर सचिव

New Delhi, the 27th February, 2007

S. O. 624.— Whereas by a notification of the Government of India in the Ministry of Petroleum and Natural Gas number S.O.4250, dated the 30th October, 2006, issued under sub-section (1) of section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), (hereinafter referred to as the said Act), published in the Gazette of India dated the 4th November, 2006, the Central Government declared its intention to acquire the right of user in the land, specified in the Schedule appended to that notification for the purpose of laying pipeline for transportation of petroleum products through Mumbai-Manglya Pipeline Extension Project from Manglya (Indore) terminal in the State of Madhya Pradesh to Piyala in the State of Haryana and Bijwasan in the NCT of Delhi by Bharat Petroleum Corporation Limited ;

And whereas the copies of the said Gazette notification were made available to the public on the 27th November, 2006;

And whereas the Competent Authority has, under sub-section (1) of section 6 of the said Act, submitted report to the Central Government;

And whereas the Central Government, after considering the said report and on being satisfied that the said land is required for laying the pipeline, has decided to acquire the right of user therein ;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 6 of the said Act, the Central Government hereby declares that the right of user in the land, specified in the Schedule, appended to this notification is hereby acquired for laying the pipeline;

And further, in exercise of the powers conferred by sub-section (4) of section 6 of the said Act, the Central Government directs that the right of user in the said land for laying the pipeline shall, instead of vesting in the Central Government, vest on the date of the publication of this declaration, in Bharat Petroleum Corporation Limited, free from all encumbraces.

SCHEDULE

TEHSIL : SUSNER		DISTRICT : SHAJAPUR	STATE : MADHYA PRADESH
S.No.	NAME OF VILLAGE	SURVEY NO.	AREA IN HECTARE
1	2	3	4
1	BAMNIYA KHEDI	275	0.0108
		470	0.1350
		466	0.0324
		465	0.0540
2	MAINA	1756	0.0810
		1999	0.1836
		2027	0.0324
3	BORKHEDI	71	0.0630
4	KADMI	237	0.0432

[F. No. R-31015/71/2004-O.R.-II]

A. GOSWAMI, Under Secy.

नई दिल्ली, 1 मार्च, 2007

का. आ. 625.—केन्द्रीय सरकार, पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनयिम, 1962 (1962 का 50) की धारा 2 के खण्ड (क) के अनुसरण मे भारत सरकार के पेट्रोलियम और प्राकृतिक गैस मंत्रालय की अधिसूचना सं0 का0 आ0 4723 दिनांक 06 दिसम्बर, 2006 का आंशिक अशोधन करते हुए, दिल्ली राष्ट्रीय राजधानी क्षेत्र तथा हरियाणा और उत्तर प्रदेश राज्यों के राज्य क्षेत्र के भीतर, उक्त अधिनियम के अधीन, मांगल्या (इन्दौर) से पियाला/बिजवासन तक भारत पेट्रोलियम कॉरपोरेशन लिमिटेड (बीपीसीएल) की मुम्बई– मांगल्या पाइपलाइन विस्तार परियोजना के लिए सक्षम प्राधिकरी के कृत्यों का पालन करने के लिए श्री दीपक नंदी, अतिरिक्त मुख्य कार्यकारी अधिकारी, जिला परिषद, कोटा, राजस्थान सरकार को प्राधिकृत करती है !

[फा. सं. आर-31015/8/2004-ओ.आर.-II]
ए. गोस्वामी, अवर सचिव

New Delhi, the 1st March, 2007

S. O. 625.—**In partial modification of notification of the Government of India in the Ministry of Petroleum & Natural Gas No. S.O. 4723 dated the 6th December, 2006 and in pursuance of Clause (a) of Section 2 of the Petroleum and Minerals Pipelines (Acquisition of Right of user in Land) Act, 1962 (50 of 1962) the Central Government hereby authorises Shri Deepak Nandi, Additional Chief Executive Officer, Zila Parishad, Kota, Government of Rajasthan on deputation to Bharat Petroleum Corporation Limited (BPCL), to perform the functions of the Competent Authority for BPCL's Mumbai-Manglya Pipeline Extension Project from Manglya (Indore) to Piyala/ Bijwasan, under the said Act, within the territory of NCT of Delhi and States of Haryana & Uttar Pradesh.**

[F. No. R-31015/8/2004-O.R.-II]
A. GOSWAMI, Under Secy.

नई दिल्ली, 2 मार्च, 2007

का. आ. 626.—केन्द्रीय सरकार ने पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) (जिसे इसमें इसके पश्चात उक्त अधिनियम कहा गया है) की धारा 3 की उपधारा (1) के अधीन जारी की गई भारत सरकार के पेट्रोलियम और प्राकृतिक गैस मंत्रालय की अधिसूचना संख्या का. आ. 3814 तारीख 20 सितम्बर, 2006, जो भारत के राजपत्र तारीख 23 सितम्बर, 2006 में प्रकाशित की गई थी, द्वारा उस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में महाराष्ट्र राज्य में लोनी (पुणे) से पकनी (सोलापुर) तक हजारवाडी के रास्ते पेट्रोलियम उत्पादों के परिवहन के लिए मुम्बई-पुणे पाइपलाइन विस्तार परियोजना के माध्यम से हिन्दुस्तान पेट्रोलियम कॉर्पोरेशन लिमिटेड द्वारा पाइपलाइन बिछाने के प्रयोजन के लिए उपयोग के अधिकार का अर्जन करने के अपने आशय की घोषणा की थी ;

और उक्त राजपत्र अधिसूचना की प्रतियां जनता को तारीख 4 दिसम्बर, 2006, को उपलब्ध करा दी गई थीं ;

और सक्षम प्राधिकारी ने, उक्त अधिनियम की धारा 6 की उपधारा (1) के अधीन, केन्द्रीय सरकार को अपनी रिपोर्ट दे दी है ;

और केन्द्रीय सरकार ने, उक्त रिपोर्ट पर विचार करने के पश्चात, और यह समाधान हो जाने पर कि उक्त भूमि पाइपलाइन बिछाने के लिए अपेक्षित है, उसमें उपयोग के अधिकार का अर्जन करने का विनिश्चय किया है ;

अतः अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 6 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह घोषणा करती है कि इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में पाइपलाइन बिछाने के लिए उपयोग के अधिकार का अर्जन किया जाता है ;

और केन्द्रीय सरकार उक्त अधिनियम की धारा 6 की उपधारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह निदेश देती है कि उक्त भूमि में उपयोग का अधिकार इस घोषणा के प्रकाशन की तारीख से केन्द्रीय सरकार में निहित होने की बजाए, सभी विल्लंगमों से मुक्त, हिन्दुस्तान पेट्रोलियम कॉर्पोरेशन लिमिटेड में निहित होगा।

अनुसूची

तालुका : सांगोला		जिला : सोलापुर		राज्य : महाराष्ट्र			
क्रम सं.	गाव का नाम	सर्वे नंबर	गट नंबर	उप-खण्ड संख्या	क्षेत्रफल		
					हेक्टर	एयर	वर्ग मीटर
1	2	3	4	5	6	7	8
1	पाचेगॉव बुद्रूक		513		00	06	49
			624		00	14	77
				कुल	**00**	**21**	**26**
2	कोले		2370		00	19	46
				कुल	**00**	**19**	**46**
3	ज़ूनोनी		17		00	12	47
			208		00	03	36
			209		00	12	24
			301		00	00	85
			10		00	00	30
				कुल	**00**	**29**	**22**
4	हातीद		213		00	00	30
			५५५ व ४५५ के बीच में ई एन		01	31	29
			58		00	13	86
				कुल	**01**	**45**	**45**
5	मिसालवाडी		152		00	00	77
				कुल	**00**	**00**	**77**
6	उधनवाडी		629		00	08	59
			502		00	12	99
				कुल	**00**	**10**	**09**
7	राज़ूरी		382		00	34	99
			247		00	05	37
				कुल	**00**	**40**	**36**

तालुका : सांगोला		जिला : सोलापुर		राज्य : महाराष्ट्र		
क्रम सं.	गाव का नाम	सर्वे नंबर	गट नंबर	उप-खण्ड संख्या	क्षेत्रफल		
					हेक्टर	एयर	वर्ग मीटर
1	2	3	4	5	6	7	8
8	अकोला		509		00	07	09
				कुल	**00**	**07**	**09**
9	कडनास		923		00	05	63
			1188		00	07	22
			1193		00	04	65
			1194		00	06	31
			1197		00	05	30
			1198		00	06	31
			1199		00	10	46
			1200		00	00	10
			1205		00	06	15
			1206		00	11	19
			1207		00	06	05
				कुल	**00**	**69**	**37**
10	वाडेगाँव		556		00	07	38
			555		00	06	85
			600		00	01	43
			494		00	13	91
				कुल	**00**	**29**	**57**

[फा. सं. आर-31015/19/2004-ओ.आर.-II]

ए. गोस्वामी, अवर सचिव

New Delhi, the 2nd March, 2007

S. O. 626.— Whereas by notification of the Government of India in the Ministry of Petroleum and Natural Gas number S.O. 3814, dated the 20th September, 2006, issued under sub-section (1) of section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962) (hereinafter referred to as the said Act), published in the Gazette of India dated the 23rd September, 2006, the Central Government declared its intention to acquire the right of user in the land, specified in the Schedule appended to that notification for the purpose of laying an extension pipeline for transportation of petroleum products through Mumbai-Pune Pipeline Extension Project from Loni (Pune) to Pakni (Solapur) via Hazarwadi in the State of Maharashtra by Hindustan Petroleum Corporation Limited;

And whereas the copies of the said Gazette notification were made available to the public on the 4th December, 2006;

And whereas the competent authority has, under sub-section (1) of section 6 of the said Act, submitted report to the Central Government;

And whereas the Central Government, after considering the said report and on being satisfied that the said land is required for laying the pipeline, has decided to acquire the right of user therein;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 6 of the said Act, the Central Government hereby declares that the right of user in the land specified in the Schedule, appended to this notification, is hereby acquired for laying the pipeline;

And further, in exercise of the powers conferred by sub-section (4) of section 6 of the said Act, the Central Government hereby directs that the right of user in the said land for laying the pipeline shall, instead of vesting in the Central Government, vest on the date of the publication of this declaration, in Hindustan Petroleum Corporation Limited, free from all encumbrances.

SCHEDULE

Taluka : SANGOLA		District : SOLAPUR		State : MAHARASHTRA		
Sr. No.	Name of the Village	Survey No.	Gat No.	Sub-Division No.	Area		
					Hectare	Are	Sq.mt
1	2	3	4	5	6	7	8
1	PACHEGAON BUDRUK		513		00	06	49
			624		00	14	77
				Total	**00**	**21**	**26**
2	KOLE		2370		00	19	46
				Total	**00**	**19**	**46**
3	JUNONI		17		00	12	47
			208		00	03	36
			209		00	12	24
			301		00	00	85
			10		00	00	30
				Total	**00**	**29**	**22**
4	HATID		213		00	00	30
			EN in between 555 and 455		01	31	29
			58		00	13	86
				Total	**01**	**45**	**45**
5	MISALWADI		152		00	00	77
				Total	**00**	**00**	**77**
6	UDHANWADI		629		00	08	59
			502		00	04	40
				Total	**00**	**12**	**99**
7	RAJURI		382		00	34	99
			247		00	05	37
				Total	**00**	**40**	**36**
8	AKOLA		509		00	07	09
				Total	**00**	**07**	**09**
9	KADLAS		923		00	05	63
			1188		00	07	22
			1193		00	04	65
			1194		00	06	31
			1197		00	05	30
			1198		00	06	31

Taluka : SANGOLA			District : SOLAPUR		State : MAHARASHTRA		
Sr. No.	Name of the Village	Survey No.	Gat No.	Sub-Division No.	Area		
					Hectare	Are	Sq.mt
1	2	3	4	5	6	7	8
9	KADLAS		1199		00	10	46
			1200		00	00	10
			1205		00	06	15
			1206		00	11	19
			1207		00	06	05
				Total	**00**	**69**	**37**
10	WADEGAON		556		00	07	38
			555		00	06	85
			600		00	01	43
			494		00	13	91
				Total	**00**	**29**	**57**

[F. No. R-31015/19/2004-O.R.-II]

A. GOSWAMI, Under Secy.

नई दिल्ली, 2 मार्च, 2007

का. आ. 627.—केन्द्रीय सरकार को ऐसा प्रतीत होता है कि लोक हित में यह आवश्यक है कि हरियाणा राज्य में पानीपत से पंजाब राज्य के नाभा होते हुए पंजाब राज्य के जालंधर तक लिक्विफाइड पैट्रोलियम गैस के परिवहन के लिए इंडियन ऑयल कार्पोरेशन लिमिटेड द्वारा एक पाइपलाइन बिछाई जानी चाहिए;

और केन्द्रीय सरकार को ऐसी पाइपलाइन बिछाने के प्रयोजन के लिए यह आवश्यक प्रतीत होता है कि उस भूमि में, जिसके भीतर उक्त पाइपलाइन बिछाई जाने का प्रस्ताव है और जो इस अधिसूचना से संलग्न अनुसूची में वर्णित है, उपयोग के अधिकार का अर्जन किया जाए;

अतः, अब, केन्द्रीय सरकार, पैट्रोलियम और खनिज पाइपलाइन्स (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, उक्त भूमि में उपयोग के अधिकार का अर्जन करने के अपने आशय की घोषणा करती है;

कोई व्यक्ति, जो उक्त अनुसूची में वर्णित भूमि में हितबद्ध है, उस तारीख से जिसको, भारत के राजपत्र में यथा प्रकाशित इस अधिसूचना की प्रतियां साधारण जनता को उपलब्ध करा दी जाती हैं, इक्कीस दिन के भीतर, भूमि के भीतर पाइपलाइन बिछाए जाने के लिए उपयोग के अधिकार के अर्जन के लिए, श्री गगनदीप सिंह, सक्षम प्राधिकारी (पंजाब), इंडियन ऑयल कॉर्पोरेशन लिमिटेड, मकान न0. 23, खुखरेन कालोनी, खालसा स्कूल रोड, खन्ना, लुधियाना, पंजाब, को लिखित रूप में आक्षेप भेज सकेगा।

अनुसूची

तहसील : फगवाड़ा जिला : कपुरथला राज्य :पंजाब

गांव का नाम	हदबस्त संख्या	मुस्तील संख्या	खसरा / किला संख्या	क्षेत्रफल		
				हेक्टेयर	एयर	वर्गमीटर
1	2	3	4	5	6	7
खनगुड़ा	76		305	00	01	52
			306	00	03	81
			307	00	11	89
			308	00	08	09
			313	00	12	39
			314	00	07	84
			321	00	03	29
			322	00	12	39
			443	00	06	07
			444	00	12	39
			458	00	02	53
			463/1	00	00	76

[फा. सं. आर-25011/2/2007-ओ.आर.-1]

एस. के. चिटकारा, अवर सचिव

New Delhi, the 2nd March, 2007

S. O. 627.— Whereas it appears to the Central Government that it is necessary in the public interest that for the transportation of Liquefied Petroleum Gas from Panipat in the State of Haryana to Jallandhar in the State of Punjab via Nabha in the State of Punjab, a pipeline should be laid by the Indian Oil Corporation Limited;

And, whereas, it appears to the Central Government that for the purpose of laying the said pipeline, it is necessary to acquire the right of user in the land under which the said pipeline is proposed to be laid, and which is described in the Schedule annexed to this notification;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein;

Any person interested in the land described in the said Schedule may, within twenty one days from the date on which the copies of the notification issued under sub-section (1) of section 3 of the said Act, as published in the Gazette of India are made available to the general public, object in writing to the acquisition of the right of user therein for laying of the pipeline under the land, to Shri Gagandeep Singh, Competent Authority (Punjab), Indian Oil Corporation Limited, H. No. 23, Khukhrain Colony, Khalsa School Road, Khanna, Ludhiana, Punjab.

SCHEDULE

Tehsil: Phagwara District: Khapurthala State: Punjab

Name of Village	Hadbast No.	Mushtil No.	Khasra / Killa No.	Area		
				Hectare	Are	Square Metre
1	2	3	4	5	6	7
Khangura	76		305	00	01	52
			306	00	03	81
			307	00	11	89
			308	00	08	09
			313	00	12	39
			314	00	07	84
			321	00	03	29
			322	00	12	39
			443	00	06	07
			444	00	12	39
			458	00	02	53
			463/1	00	00	76

[F. No. R-25011/2/2007-O.R.-I]
S.K. CHITKARA, Under Secy.

नई दिल्ली, 2 मार्च, 2007

का. आ. 628.—केन्द्रीय सरकार को ऐसा प्रतीत होता है कि लोक हित में यह आवश्यक है कि हरियाणा राज्य में पानीपत से पंजाब राज्य के नाभा होते हुए पंजाब राज्य के जालंधर तक लिक्विफाइड पैट्रोलियम गैस के परिवहन के लिए इंडियन ऑयल कार्पोरेशन लिमिटेड द्वारा एक पाइपलाइन बिछाई जानी चाहिए;

और केन्द्रीय सरकार को ऐसी पाइपलाइन बिछाने के प्रयोजन के लिए यह आवश्यक प्रतीत होता है कि उस भूमि में, जिसके भीतर उक्त पाइपलाइन बिछाई जाने का प्रस्ताव है और जो इस अधिसूचना से संलग्न अनुसूची में वर्णित है, उपयोग के अधिकार का अर्जन किया जाए;

अतः, अब, केन्द्रीय सरकार, पैट्रोलियम और खनिज पाइपलाइन्स (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, उक्त भूमि में उपयोग के अधिकार का अर्जन करने के अपने आशय की घोषणा करती है;

कोई व्यक्ति, जो उक्त अनुसूची में वर्णित भूमि में हितबद्ध है, उस तारीख से जिसको, भारत के राजपत्र में यथा प्रकाशित इस अधिसूचना की प्रतियां साधारण जनता को उपलब्ध करा दी जाती हैं, इक्कीस दिन के भीतर, भूमि के भीतर पाइपलाइन बिछाए जाने के लिए उपयोग के अधिकार के अर्जन के लिए, श्री गगनदीप सिंह, सक्षम प्राधिकारी (पंजाब), इंडियन ऑयल कॉर्पोरेशन लिमिटेड, मकान नं. 23, खुखरेन कालोनी, खालसा स्कूल रोड, खन्ना, लुधियाना, पंजाब, को लिखित रूप में आक्षेप भेज सकेगा।

अनुसूची

तहसील : नवां शहर जिला :नवां शहर राज्य :पंजाब

गांव का नाम	हदबस्त संख्या	मुस्तील संख्या	खसरा / किला संख्या	क्षेत्रफल		
				हेक्टेयर	एयर	वर्गमीटर
1	2	3	4	5	6	7
खोजा	284	46	6	00	01	77
			7	00	02	28
			14	00	00	25
			15/1	00	09	86
			16/1	00	00	25
		-	74	00	01	77

[फा. सं. आर-25011/2/2007-ओ.आर.-I]

एस. के. चिटकारा, अवर सचिव

New Delhi, the 2nd March, 2007

S. O. 628.— Whereas it appears to the Central Government that it is necessary in the public interest that for the transportation of Liquefied Petroleum Gas from Panipat in the State of Haryana to Jallandhar in the State of Punjab via Nabha in the State of Punjab, a pipeline should be laid by the Indian Oil Corporation Limited;

And, whereas, it appears to the Central Government that for the purpose of laying the said pipeline, it is necessary to acquire the right of user in the land under which the said pipeline is proposed to be laid, and which is described in the Schedule annexed to this notification;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein;

Any person interested in the land described in the said Schedule may, within twenty one days from the date on which the copies of the notification issued under sub-section (1) of section 3 of the said Act, as published in the Gazette of India are made available to the general public, object in writing to the acquisition of the right of user therein for laying of the pipeline under the land, to Shri Gagandeep Singh, Competent Authority (Punjab), Indian Oil Corporation Limited, H. No. 23, Khukhrain Colony, Khalsa School Road, Khanna, Ludhiana, Punjab.

SCHEDULE

Tehsil: Nawanshahr District: Nawanshahr State: Punjab

Name of Village	Hadbast No.	Mushtil No.	Khasra / Killa No.	Area		
				Hectare	Are	Square Metre
1	2	3	4	5	6	7
Khoja	284	46	6	00	01	77
			7	00	02	28
			14	00	00	25
			15/1	00	09	86
			16/1	00	00	25
		-	74	00	01	77

[F. No. R-25011/2/2007-O.R.-I]
S.K. CHITKARA, Under Secy.

कोयला मंत्रालय

नई दिल्ली, 13 फरवरी, 2007

का. आ. 629.—केन्द्रीय सरकार ने, कोयला भारक क्षेत्र (अर्जन और विकास) अधिनियम, 1957 (1957 का 20) (जिसें इसमें इसके पश्चात् उक्त अधिनियम कहा गया है) की धारा 7 की उपधारा (1) के अधीन जारी की गई भारत सरकार के कोयला मंत्रालय की अधिसूचना सं. का. आ. 792 तारीख 24 फरवरी, 2005 जो भारत के राजपत्र, भाग 2, खंड 3, उपखंड (ii), तारीख 5 मार्च, 2005 में प्रकाशित की गई थी, द्वारा उस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट परिक्षेत्र की भूमि का अर्जन करने के अपने आशय की सूचना दी थी।

और सक्षम प्राधिकारी ने उक्त अधिनियम की धारा 8 के अनुसरण में केन्द्रीय सरकार को अपनी रिपोर्ट दे दी है।

और केन्द्रीय सरकार या पूर्वोक्त रिपोर्ट पर विचार करने के पश्चात् और छत्तीसगढ़ सरकार से परामर्श करने के पश्चात् यह समाधान हो गया है कि :–

(क) इससे उपाबद्ध अनुसूची "क"में यथवर्णित 5.30 हेक्टर (लगभग)या 13.09 एकड़ (लगभग) मापवाली भूमि और

(ख) इससे उपाबद्ध अनुसूची "ख" मे यथावर्णित 543.35 हेक्टर (लगभग) या 1342.61 एकड़ (लगभग) मापवाली भूमि में अधिकारों को अर्जित किया जाना चाहिए !

अतः अब, केन्द्रीय सरकार उक्त अधिनियम की धारा 9 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि :–

(क) अनुसूची "क" में यथावर्णित 5.30 हेक्टर (लगभग) या 13.09 एकड़ (लगभग) मापवाली भूमि,और

(ख) अनुसूची "ख" में यथावर्णित 543.35 हेक्टर (लगभग) या 1342.61(लगभग) मापवाली भूमि में अधिकारों को अर्जित किया जाना है।

इस अधिसूचना के अधीन आने वाले क्षेत्र के रेखांक सं. एसईसीएल/बीएसपी/जीएम (पीएलजी)/भूमि 297 तारीख 12 मई, 2005 का निरीक्षण कलेक्टर सरगुजा (छत्तीसगढ़) के कार्यालय में या कोयला नियंत्रक, 1, काउंसिल हाउस स्ट्रीट, कोलकाता के कार्यालय में या साउथ ईस्टर्न कोलफील्ड्स लि0 (राजस्व विभाग), सीपत मार्ग, बिलासपुर–495006(छत्तीसगढ़) के कार्यालय में किया जा सकता है।

अनुसूची "क"
केतकी भूमिगत परियोजना, विश्रामपुर क्षेत्र
जिला–सरगुजा (छत्तीसगढ़)

सभी अधिकार

कमांक संख्या	ग्राम का नाम	ग्राम का संख्यांक	पटवारी हल्का संख्यांक	तहसील	जिला	हेक्टर में क्षेत्र	टिप्पण
01	जोबगा	275	45	सूरजपुर	सरगुजा	5.30	भाग
योग– 5.30 हेक्टर (लगभग) या 1309 एकड़ (लगभग)							

ग्राम जोबगा (भाग) में अर्जित किए गये प्लाट संख्यांक :– 969 से 982 और 907 (भाग).

सीमा वर्णन :–

क–ख ग्राम जोबगा में रेखा "क" बिंदु से आरंभ होती है और प्लाट संख्या 969,. 970,971,972,975,976,977,978,987 की उत्तरी सीमा से होती हुई बिन्दु "ख" पर मिलती है

ख–ग रेखा प्लाट संख्या 987 से होते हुए प्लाट संख्या 982,981 की पूर्वी सीमा के साथ गुजरती हुई बिन्दु "ग" पर मिलती है।

ग–घ रेखा प्लाट संख्या 974 की दक्षिणी सीमा के साथ गुजरती हुई बिन्दु "घ" पर मिलती है।

घ–क रेखा प्लाट संख्या 978, 969 की पश्चिमी सीमा से गुजरती हुई आरंभिक बिन्दु "क" पर मिलती है।

अनुसूची "ख"
केतकी भूमिगत परियोजना, विश्रामपुर क्षेत्र
जिला–सरगुजा (छत्तीसगढ़)

खनन अधिकार

कमांक संख्या	ग्राम का नाम	ग्राम सं.	पटवारी हल्का सं.	तहसील	जिला	क्षेत्रफल (हेक्टर)	टिप्पण
01	जोबगा	275	45	सूरजपुर	सरगुजा	190.65	भाग
02	केतकी	61	45	सूरजपुर	सरगुजा	64.45	भाग
03	लाछा	400	45	सूरजपुर	सरगुजा	138.88	भाग
योगः–393.98 हेक्टर							

वन भूमि

कमांक संख्या	कम्पार्टमेन्ट नबंर	रेंज	खण्ड	क्षेत्र (हेक्टर में)	टिप्पण
01	135	सूरजपुर	दक्षिण सरगुजा	149.37	भाग
योगः– 149.37 हेक्टर (लगभग)					
कुल योगः–393.98 + 149.37 = 543.35 हेक्टर (लगभग) या 1342.61 एकड़ (लगभग)					

1. ग्राम जोबगा (भाग) में अर्जित प्लाट संख्या

140(भाग),141(भाग),145(भाग),146(भाग),147,148,149(भाग),150से153,154(भाग),155(भाग),156(भाग),157(भाग),194(भाग),195,196(भाग),197(भाग),198,199,200(भाग),201 (भाग), 202 (भाग), 204(भाग), 205(भाग),206(भाग), 207से 216, 217(भाग), 218(भाग), 219(भाग),220 (भाग),228(भाग),230(भाग),231से235,236(भाग),237(भाग),238से416,417(भाग) 418से 434,435 (भाग), 437(भाग),438,439(भाग), 491(भाग),492 (भाग),493से 594, 595(भाग), 596(भाग), 597(भाग), 598(भाग), 599, 600, 601(भाग), 606 (भाग), 607, 608(भाग), 641(भाग), 642(भाग), 644(भाग), 710(भाग), 712(भाग), 713(भाग), 714 से 718, 719 (भाग),720 सें 723,724(भाग),725से830,831(भाग),841(भाग),842(भाग),843,844,845(भाग),846(भाग),847से894.895(भाग),896,897,898(भाग)902(भाग),903(भाग),905(भाग),906(भाग),907(भाग),909(भाग)

,910(भाग),915(भाग),916(भाग),917(भाग),918(भाग),919,920(भाग),927(भाग),928,929,930 (भाग), 931(भाग), 932(भाग) और 1021(भाग).

2. ग्राम केतकी (भाग) में अर्जित प्लाट संख्या

1129(भाग),1131(भाग),1132(भाग),1134(भाग),1136(भाग), 1137, 1138(भाग), 1139(भाग), 1140से1143, 1144(भाग), 1145(भाग), 1148(भाग), 1149 (भाग), 1150से1159, 1160(भाग), 1161से1165,1166(भाग), 1198(भाग), 1199 (भाग), 1200(भाग), 1201से1203, 1204(भाग), 1205से1211, 1212(भाग), 1213(भाग), 1255(भाग), 1257(भाग), 1258(भाग), 1259(भाग), 1260से1295, 1296(भाग), 1297(भाग), 1298(भाग), 1299(भाग), 1300से1305, 1306 (भाग) 1323 (भाग), 1491 (भाग), 1492(भाग), 1493(भाग), 1494(भाग), 1495(भाग), 1496(भाग), 1497,1498(भाग), 1499से 1537, 1538(भाग), 1539(भाग), 1540,1541, 1542(भाग), 1543, 1544(भाग),1547(भाग) और 1572(भाग) ।

3. ग्राम लाछा (भाग) में अर्जित प्लाट संख्यांक

370(भाग), 371(भाग), 380(भाग), 381(भाग), 451(भाग), 484(भाग), 485(भाग),486(भाग), 490(भाग), 491(भाग), 492से497, 498(भाग), 501(भाग), 528(भाग), 529(भाग),533से537, 538(भाग), 552(भाग),553से 555, 556(भाग), 557(भाग), 558से571,572(भाग), 573(भाग), 574(भाग), 575(भाग), 588(भाग), 589(भाग), 590से 643, 645(भाग),646से753, 754(भाग), 757(भाग), 758(भाग), 759, 760, 761(भाग), 762,763,764(भाग), 765(भाग), 766से768, 769(भाग), 770(भाग), 771(भाग), 781(भाग), 782(भाग), 783से795, 796(भाग), 797(भाग), 798 से 800, 801(भाग), 802(भाग),806(भाग), 807से832, 833(भाग),835(भाग), 836से 838, 839(भाग), 840(भाग),841(भाग), 842(भाग),844(भाग),845,846(भाग),847(भाग),848(भाग),849,850(भाग),851(भाग),855(भाग),876 (भाग),877से884,885(भाग),886(भाग),890(भाग),891से895,896(भाग),897(भाग),898(भाग),899(भाग), 900से 908, 909(भाग), 910(भाग), 911(भाग), 912(भाग), 918(भाग), 919से923, 924(भाग),925 (भाग), 944(भाग), 948(भाग), 949,950(भाग), 951(भाग), 952(भाग) और 975(भाग) ।

4. अर्जित आरक्षित वन कम्पार्टमेन्ट संख्या : 135 (भाग).

सीमा वर्णनः–

क–घ रेखा ग्राम जोबगा में बिन्दु "क" से आरंभ होकर प्लाट संख्या 969,974 की सम्मिलित सीमा और आरक्षित वन सीमा से होते हुए बिन्दु "घ" पर मिलती है।

घ–घ1– रेखा आरक्षित वन कम्पार्टमेन्ट संख्या 135 से होकर ग्राम लाछा

ड.–च– में से प्रवेश करती है और प्लाट संख्या 924,925,918,909,910,911,912,899,

छ–ज 896,897,898,944,948,952,951,950,975,370 से होते हुए बिन्दु "ज" पर मिलती है।

ज–ज1– रेखा ग्राम लाछा के प्लाट संख्या 370,371,380,381,975,890,886,885,876 ज2–ज3और प्लाट संख्या 907,855 की पश्चिमी सीमा से होती हुई बिन्दु पर "ज3" पर मिलती है।

ज3–ज4 रेखा ग्राम लाछा में प्लाट संख्या 855,851,850,848,847,846,844,842,841,

ज5–ज6 840,839,835,833,806,796,797,801,802,782,781,754,757,758,761,764,765,771 से होती हुई बिन्दु "ज6" पर मिलती है।

ज6–ज7 रेखा ग्राम लाछा में प्लाट संख्या 771,770,769,451,645 से होते हुए –ज8643,492,की दक्षिणी सीमा प्लाट संख्या 491,490,486,485,484 से गुजरते हुए बिन्दु "ज8" पर मिलती है।

ज8–ज9	रेखा ग्राम लाछा में प्लाट संख्या 484,498,501,589,588,575,574,573,572,
ज10–झ	528,529 से होते हुए प्लाट संख्या 533 की पश्चिमी सीमा से गुजरती है, बाद में प्लाट संख्या538,552,556,557 से होते हुई ग्राम केतका में प्रवेश करती है और प्लाट1139,1138,1136,1134 से गुजरते हुए बिन्दु "झ" पर मिलती है।
झ–भ	रेखा ग्रामकेतका के प्लाट संख्या1134,1132,1131,1129,1144,1145,1149,1148,1160,1166,1198
ट–ठ	1199,1200,1204,1212,1213,1259,1257,1255,1296,1297,1298,1299,1306,1323,1496,1495, 1494,1493,1492,1498,1491,1544, 1542,1547,1539,1538,1572 से गुजरते हुए ग्राम जोबगा में प्रवेश करती है और प्लाट संख्या237,236,230,228,217,218,219,220, 206,205, 204,202,201, 200,197,196,194,417, से होती हुई बिन्दु "ठ" पर मिलती है।
ठ–ड–ढ	रेखा ग्राम जोबगा में प्लाट संख्या 417,157,156,154,155,149,145,146,141,140, से होती हुई बिन्दु "ढ" पर मिलती है।
ढ–ण	रेखा ग्राम जोबगा में प्लाट संख्या 140,435,437,439,492,491,595,596,
त–थ	597,598,601,606,608,641,642,719,644,719,713,712,724,710,831,841,842,1021,845,846, 1021,920,927,930,932 से होती हुई बिन्दु "थ" पर मिलती है।
थ–थ1–द	रेखा ग्राम जोबगा के प्लाट संख्या 932,931,930,917,918,916,915,910,
ध–न–क	909,907,906,905,903,902,895,898 से होते हुई आरक्षित वन में प्रवेश करती है और कम्पार्टमेन्ट नंबर 135 से होती हुई आरभिंक बिन्दु "क" पर मिलती है ।

[फा. सं.-43015/9/2003-पीआरआईडब्ल्यू]

एम. शहाबुद्दीन, अवर सचिव

Ministry of Coal

New Delhi, the 13th February, 2007

S. O. 629.—Whereas by the notification of the Government of India in the Ministry of Coal, number S. O. 792 dated the 24th February, 2005, published in the Gazette of India dated the 5th March, 2005 issued under sub-section (1) of Section 7 of the Coal Bearing Areas (Acquisition and Development) Act, 1957 (20 of 1957), (herein after referred to as the said Act) the Central Government gave notice of its intention to acquire the lands in the locality specified in the Schedules annexed to that notification;

And whereas the competent authority in pursuance of section 8 of the said Act has made his report to the Central Government;

And whereas the Central Government after considering the aforesaid report and after consulting the Government of Chhattisgarh is satisfied that :

(a) the land measuring 5.30 hectares (approximately) or 13.09 acres (approximately) as described in the Schedule 'A' appended hereto; and

(b) the rights in the land measuring 543.35 hectares (approximately) or 1342.61 acres (approximately) described in the Schedule 'B' appended hereto should be acquired:

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 9 of the said Act, the Central Government hereby declares that-.

(a) the land measuring 5.30 hectares (approximately) or 13.09 acres (approximately) as described in the Schedule 'A' ;and

(b) the rights in the lands measuring 543.35 hectares (approximately) or 1342.61 acres (approximately) as described in the Schedule 'B' are hereby acquired.

The plan bearing No.SECL/BSP/GM(PLG)/Land 297 dated the 12th May, 2005 of the area covered by this notification may be inspected in the Office of the Collector, Surguja (Chhattisgarh) or in the Office of the Coal Controller, 1, Council House Street, Calcutta or in the Office of the South Eastern Coalfields Limited (Revenue Section), Seepat Road, Bilaspur-495006 (Chhattisgarh).

SCHEDULE 'A'

Ketki Under Ground Project,
Bisrampur Area, District Surguja (Chhattisgarh)

ALL RIGHTS

Serial number	Name of village	Village number	Patwari halka number	Tahsil	District	Area in hectares	Remarks
1	Jobga	275	45	Surajpur	Surguja	5.30	Part
Total: 5.30 hectares (approximately) or 13.09 acres (approximately)							

1. **Plot numbers acquired in village Jobga (part):**
969 to 982 and 987 (part).

Boundary Description

A-B Line starts in village Jobga from point "A" and passes along the Northern boundary of plot numbers 969, 970. 971, 972. 975, 976, 977, 978, 987 and meets at point "B"

B-C Line passes through plot number 987 then passes along the Eastern boundary of plot numbers 982,981and meets at point "C",

C-D Line passes along the Southern boundary of plot number 974 and meets at point "D",

D-A Line passes along the Western boundary of plot number 974 and 969 and meets at the starting point "A"

SCHEDULE 'B'

Ketki Under Ground Project, Bisrampur Area,
District Surguja (Chhattisgarh)

MINING RIGHTS

Serial number	Name of village	Village number	Patwari halka number	Tahsil	District	Area in hectares	Remarks
1	Jobga	275	45	Surajpur	Surguja	190.65	Part
2	Ketka	61	45	Surajpur	Surguja	64.45	Part
3	Lachha	400	45	Surajpur	Surguja	138.88	Part
Total: 393.98 hectares							

Forest land

Serial number	Compartment number	Range	Division	Area in hectares	Remarks
1	135	Surajpur	South Surguja	149.37	Part
			Total: 149.37 hectares		
Grant total: 393.98 + 149.37 = 543.35 hectares (approximately) or 1342.61 acres (approximately)					

(1) Plot numbers acquired in village Jobga (Part):-

140(Part), 141(Part), 145(Part). 146(Part), 147, 148,149(Part);150 to153,154 (Part), 155(Part), 156(Part), 157(Part), 194(Part), 195, 196(Part), 197(Part), 198,199,2 00(Part), 201(Part), 202(Part), 204(Part), 205(Part) 206(Part), 207 to 216, 217(Part), 218(Part),219(Part), 220(Part), 228 (Part), 230(Part), 231 to 235, 236(Part), 237(Part), 238 to 416, 417(Part), 418 to 434, 435(Part), 437(Part), 438, 439(Part), 491(Part), 492(Part), 493 to 594, 595(Part), 596(Part), 597(Part), 598(Part), 599, 600, 601(Part), 606 (Part), 607, 608(Part), 641(Part), 642(Part), 644(part), 710(Part), 712(Part), 713(Part), 714 to 718, 719 (Part), 720 to 723, 724(Part), 725 to 830, 831(Part), 841(Part), 842(Part), 843, 844, 845(Part), 846(Part), 847 to 894, 895(Part], 896, 897, 898[Part], 902[Part], 903[Part], 905[Part], 906 [Part], 907[Part], 909[Part], 910[Part], 915[Part], 916[Part], 917[Part], 918[Part], 919, 920[Part], 927[Part], 928, 929, 930[Part], 931[Part], 932(Part], and 1021[Part].

2. Plot numbers acquired in village Ketka [Part]:-

1129[Part], 1131[Part], 1132[Part], 1134[Part], 1136[Part], 1137, 1138 [Part], 1139[Part], 1140 to1143, 1144[Part], 1145[Part], 1148[Part], 1149 [Part],1150 to 1159, 1160[Part], 1161 to 1165, 1166[Part], 1198[Part], 1199 [Part], 1200[Part], 1201 to 1203, 1204[Part], 1205 to 1211, 1212[Part], 1213 (Part], 1255[Part], 1257[Part], 1258[Part], 1259[Part], 1260 to 1295, 1296[Part], 1297[Part], 1298[Part], 1299[Part], 1300 to1305, 1306[Part], 1323[Part], 1491[Part], 1492{Part], 1493[Part], 1494[Part], 1495[Part), 1496(Part), 1497, 1498[Part[, 1499 to 1537, 1538[Part], 1539[Part], 1540, 1541, 1542[Part], 1543,1544[Part], 1547[Part] and 1572[Part].

3. Plot numbers acquired in village Lachha [Part]:-

370[Part), 371[Part], 380[Part], 381[Part], 451[Part], 484[Part], 485[Part], 486[Part], 490[Part], 491[Part], 492 to 497, 498[Part], 501[Part], 528[Part], 529(Part), 533 to 537, 538[Part], 552[Part], 553 to 555, 556[Part], 557[Part], 558 to 571, 572[Part], 573[Part], 574[Part], 575[Part], 588[Part], 589[Part], 590 to 643, 645[Part], 646 to 753, 754[Part], 757[Part], 758[Part], 759, 760, 761[Part], 762, 763, 764[Part], 765[Part], 766 to 768, 769[Part], 770[Part], 771[Part], 781 [Part], 782[Part], 783 to 795, 796[Part], 797[Part], 798 to 800, 801[Part], 802 [Part], 806[Part], 807 to 832, 833[Part], 835[Part], 836to838, 839[Part], 840 [Part], 841[Part], 842[Part], 844[Part], 845, 846[Part], 847[Part], 848[Part], 849, 850[Part], 851[Part], 855[Part], 876[Part], 877 to 884, 885[Part], 886[Part], 890(Part), 891 to 895, 896[Part], 897[Part], 898[Part] 899[Part], 900 to 908, 909 [Part], 910[Part],911[Part], 912[Part], 918[Part], 919 to 923, 924[Part], 925[Part], 944[Part], 948[Part], 949, 950[Part], 951[Part], 952[Part] and 975[Part].

4. Reserved Forest acquired : compartment number: 135(Part):-

Boundary Description-.

A-D Line starts in village Jobga from point "A" and passes along common boundary of plot numbers 969,974 and Reserved Forest boundary and meets at point **"D"**

D-D1-E F-G-H	Line passes through Reserve Forest compartment no.135 and enter in village Lachha and passes through plot numbers 924, 925, 918, 909;910, 911, 912, 899, 896, 897, 898, 944, 948, 952, 951, 950, 975, 370 and meets at point **"H"**.
H-H1 H2-H3	Line passes in village Lachha through plot numbers 370, 371, 380, 381, 975, 890, 886, 885, 876 and partly western boundary of plot number 907, 855 and meets at point **"H3"**.
H3-H4- H5-H6	Line passes in village Lachha through plot numbers 855, 851, 850, 848, 847, 846, 844, 842, 841, 840, 839, 835, 833, 806, 796, 797, 801, 802, 782, 781, 754, 757, 758, 761, 764, 765, 771 and meets at point" **H6**".
H6-H7- H8	Line passes in village Lachha through plot numbers 771, 770, 769, 451, 645 along southern boundary of plot numbers 643, 492,and passes through plot numbers 491, 490, 486, 485, 484 and meets at point "**H8**".
H8-H9- H 10-I	Line passes in village Lachha through plot numbers 484, 498, 501, 589, 588, 575, 574, 573, 572, 528, 529, Western boundary of plot number 533, then through plot numbers 38, 552, 556, 557 and enters in village Ketka and passes through plot numbers 1139, 1138, 1136, 1134 and meets at point "**I**".
I-J-K- L	Line passes in village Ketka through plot numbers 1134, 1132, 1131, 1129, 1144, 1145, 1149, 1148, 1160, 1166, 1198,.1199,1200, 1204, 1212, 1213, 1259,1258, 1257, 1255, 1296, 1297, 1298, 1299, 1306, 1323, 1496, 1495, 1494, 1493, 1492, 1498, 1491, 1544, 1542, 1547, 1539, 1538, 1572 and enters in village Jobga and passes through plot numbers 237, 236, 230, 228, 217, 218, 219, 220, 206, 205, 204, 202, 201, 200, 197, 196, 194, 417 and meets at point **"L"**.
L-M-N	Line passes in village Jobga through plot numbers 417, 157, 156, 154, 155, 149, 145, 146, 141, 140 and meets at point **"N"**.
N-O- P-Q	Line passes in village Jobga through plot numbers 140, 435, 437, 439, 492, 491, 595, 596 597, 598, 601, 606, 608, 641, 642, 719, 644, 719, 713, 712, 724, 710, 831, 841, 842, 1021 845, 846, 1021, 920, 927, 930, 932 and meets at point **"Q"**.
Q-QI-R- S-T-A	Line passes in village Jobga through plot numbers 932, 931, 930, 917, 918, 916, 915, 910,909, 907, 906, 905, 903, 902, 895, 898 and enters in Reserve forest and passes through compartment number 135 and meets at starting point **"A"**.

[F. No.-43015/9/2003-PRIW]
M. SHAHABUDEEN, Under Secy.

श्रम एवं रोजगार मंत्रालय

नई दिल्ली, 5 फरवरी, 2007

का.आ. 630.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सीपी डब्ल्यू डी के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. 1, नई दिल्ली के पंचाट (संदर्भ संख्या 52/89) को प्रकाशित करती है, जो केन्द्रीय सरकार को 5-2-2007 को प्राप्त हुआ था ।

[सं. एल-42012/86/88-डी-II(बी)]

सुरेन्द्र सिंह, डेस्क अधिकारी

MINISTRY OF LABOUR AND EMPLOYMENT

New Delhi, the 5th February, 2007

S.O. 630.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 52/89) of the Central Government Industrial Tribunal-cum-Labour Court No. 1, New Delhi as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of C.P.W.D. and their workmen, which was received by the Central Government on 5-2-2007.

[No. L-42012/86/88-D-II(B)]

SURENDRA SINGH, Desk Officer

ANNEXURE

BEFORE SHRI SANT SINGH BAL, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, NEW DELHI

I. D. No. 52/89

In the matter of dispute between:

Shri Radhey Lal
S/o Shri Banwari Lal,
Resident of House No. 1231,
Kucha Patiram, Bazar Sita Ram,
Delhi-6

At present House No. WZ-3069,
Mahendra Park Near Kapil Body Temple,
Rani Bagh, Delhi-34 ...Workman

Versus

Executive Engineer, 'A' Division,
Central Public Works Department,
Indraprastha Bhawan,
Indraprastha Estate,
New Delhi-110002 ...Management

APPEARANCES

Shri Radhey Lal in person.
Shri Bhisham Dev Mund A/R
for management.

AWARD

The Central Government in the Ministry of Labour vide its Order No. L-42012/86/88-D-2(B) dated 24-5-89 has referred the following industrial dispute to this Tribunal for adjudication :

> "Whether the action of the management of CPWD 'A' Division, New Delhi in terminating the services of Shri Radhey Lal son of late Shri Banwari Lal w.e.f. 16-12-70 is justified? If not, to what relief the workman is entitled ?"

2. Brief facts of this case as culled from the statement of claim are that he joined service with the respondent bank as beldar vide letter dated 26.3.73 at the salary of Rs. 70. He joined service at IA. Sub-Division . He noticed that two junior engineers Harish and Mateen alongwith Shri Lajpat Rai, Head Clerk were indulging in immoral and illegal activities like drinking and womanizing in the office premises after office hours. He kept a watch over outsiders who might come in unexpectedly. He protested against such activities and informed the superior officers about the same. He was transferred to 2A sub-division because of the influence of the said persons and without payment of salary for September, October and November, 1973. The harassment against him continued. Thereafter in 1975 the workman fell ill seriously and he sent application supported by medical certificate. He reported for duty but was not allowed to join the duties. He sought appointment with Assistant Engineer, 3 A, Sub-Division which was not given. He continued writing letter but of no use. With great difficulty he submitted his joining report on 10-10-77 and informed the Assistant Engineer about it, at 3A, Sub-Division. In the meantime he was served charge sheet with vague and wide allegation of misconduct without specific particulars and ultimately his services were terminated without any enquiry after the said charge sheet. He filed appeal against the said termination order which was allowed by Appellate Authority and opportunity of hearing was also ordered to be given to workman. Dismissal had been set aside but salary was still not paid despite specific demand. An enquiry was held but it was an eye wash and formality for victimizing the workman as the officer were biased who was also conversant with the enquiry proceedings. No efficient employee was willing to represent him. He was unable to engage a legally qualified person for guiding the workman in the enquiry. He was not given material documents which were in exclusive possession of the management despite his request. The finding of the enquiry officer were not correct and liable to be reversed. Even otherwise penalty of disposal was not called for and is disproportionate to the facts and circumstances of the case. After receipt of the enquiry report from the enquiry officer management sent a notice to the workman regarding proposed punishment of dismissal to which he sent written reply. No action was taken on finding of the alleged enquiry for four years and workman was continuously harassed. He was transferred from one place to another and every attempt was made to stop him from resuming the duties and submitting the joining report. And ultimately dismissal order dated 17-12-85 was passed retrospectively w .e. f. 16-12-79. Order is contrary to rules and regulations and provisions of law even.

3. Claim was contested by management and after conducting enquiry workman was inflicted punishment of dismissal but the workman challenged finding of the enquiry by filing the writ No.4266/93 in the High Court and the same was disposed of vide order dated 26.8.2002. The Hon'ble High Court set aside the award to the extent of imposing penalty of dismissal as the punishment of dismissal from service appeared to be disproportionate to the High Court in the facts of the circumstances of the case and the case was remanded observing to adjudicate quantum of punishment only with the following observations.

> "Learned counsel for the petitioner did not make any submissions on the merits of the case. In fact when notice was issued in this case on 8th September,1993, it was primarily on the question whether the penalty imposed was disproportionate or not. Consequently, the learned industrial Tribunal will not adjudicate on the merits of the case but on the quantum of punishment only.

Thus vide aforesaid order of the High Court this Tribunal is not required to go into the merits of this case i.e. to say that all the allegations including the allegation of remaining absent from duty were not disputed and this Tribunal is not to disturb the findings of the Enquiry Officer dated vide report dated. This Tribunal is only to determine quantum of punishment in the facts and the circumstances of the case.

4. Written statement was followed by rejoinder wherein the contents of the written statement were refuted and that of the claim statement were reinstated to he correct.

5. I have heard workman while none came to address arguments on behalf of the management despite opportunity granted and perused the record carefully.

6. The main allegation against the workman is that he remained absent from duty during the period from the year 1975 till April,76. He was found guilty for remaining absent for a long period from April,75 till April,76. It is also claimed by the respondent that he did not even apply for leave and disclosed reasons for remaining absent but the workman claims that he became ill and claims to have filed application and could not appear.In any case he was found guilty for remaining absent for the said period. Remaining absent is a serious matter but the penalty of imposing punishment of dismissal from service also appears to be harsh and disproportionate particularly when the workman could not join duty due to illness and was not allowed to join duty. He has even filed photo copy of the medical certificate during this proceedings. The workman even approached High Court by filing writ petitions wherein The High Court observed that only quantum of punishment is to be determined and that too not by the High Court but by this Tribunal as mentioned above.

7. In my view it would be appropriate if lesser punishment is inflicted upon the workman and in my view ends of justice will be met if the workman is imposed penalty of stoppage of two increments only. It is accordingly ordered that the workman is awarded punishment of withholding loosing two increments from the last pay drawn at the time of termination and he is ordered to be reinstated on the salary minus two increments. The workman has claimed full back wages stating that as he has remained out of job and could not find any suitable job after his termination, In the facts and circumstances it is ordered that the workman be reinstated in service as mentioned above but he will be paid 20% of back wages, for, giving him full or more would in my view encourage absentism. It would be appropriate if the workman is awarded 20% of wages during the period commencing from his termination till reinstatement. It is further made clear that the workman shall be reinstated if he has not attained the age of superannuation in terms of this order and if he has reached age of superannuation he shall stand superannuated with the benefit of pension as per rules with the arrears of back wages @ 20%. Award is accordingly passed and file be consigned to record room.

Dated : 11-1-07 SANT SINGH BAL, Presiding Officer

नई दिल्ली, 5 फरवरी, 2007

का.आ. 631.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार हिन्दुस्तान ऐयरोनाटिक्स् लिमिटेड के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, कानपुर के पंचाट (संदर्भ संख्या 158/98) को प्रकाशित करती है, जो केन्द्रीय सरकार को 5-2-2007 को प्राप्त हुआ था ।

[सं. एल-14011/5/98-आई आर (डी यू)]

सुरेन्द्र सिंह, डेस्क अधिकारी

New Delhi, the 5th February, 2007

S.O. 631.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 158/98) of the Central Government Industrial Tribunal-cum-Labour Court, Kanpur as shown in the Annexure, in the Industrial Dispute between the management of Hindustan Aeronautics Limited, and their workmen, received by the Central Government on 5-2-2007.

[No. L-14011/5/98-IR(DU)]

SURENDRA SINGH, Desk Officer

ANNEXURE

BEFORE SRI SURESH CHANDRA, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, KANPUR

I.D. No. 158 of 1998

In the matter of dispute between:

Sri Nathu Lal Sharma, Secretary H.A.L. Karmachari Sangh 23/4, HAL Colony Kanpur-208007, U.P.

and

The Executive Director Hindustan Aeronautics Ltd. Kanpur-208007, U.P.

AWARD

1. Central Government, Ministry of Labour, New Delhi vide Notification No. L-14011/5/1998-IR (D.U.) dated 11-8-1998 has referred the present dispute for adjudication as under :—

> "Whether the demands of employees of HA.L., Kanpur, represented by Secretary, HAL Karmachari Sangh, as contained in charter of demands dated the 20th Dec., 1997 is legal and justified? If not, what relief the workmen are entitled for?"

2. It is needless to give full facts of the case as both the contesting parties have been debarred from adducing their evidence in the present dispute before Tribunal.

3. It is settled legal position that the claimant should prove his case before competent Court of Law and if he fails to do so he cannot be granted any relief as claimed by him. Thus virtually it appears that it is a case of no evidence by the union in support of their claims. If it is so, the union cannot be granted any relief as claimed by it for want of evidence.

4. For the reasons discussed above that the union raising the present dispute cannot be held entitled for any relief as claimed by it in his Statement of Claim for want of proper evidence.

5. Reference is therefore answered in favour of management and against, the union raising the dispute.

SURESH CHANDRA, Presiding Officer

नई दिल्ली, 5 फरवरी, 2007

का.आ. 632.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सी.पी. डब्ल्यू. डी. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. 1, नई दिल्ली के पंचाट (संदर्भ संख्या 135/97) को प्रकाशित करती है, जो केन्द्रीय सरकार को 5-2-2007 को प्राप्त हुआ था ।

[सं. एल-42012/3/96-आईआर (डीयू)]

सुरेन्द्र सिंह, डेस्क अधिकारी

New Delhi, the 5th February, 2007

S.O. 632.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 135/97) of the Central Government Industrial Tribunal-cum-Labour Court No. 1, New Delhi as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of C.P.W.D., and their workmen, received by the Central Government on 5-2-2007.

[No. L-42012/3/96-IR(DU)]

SURENDRA SINGH, Desk Officer

ANNEXURE

BEFORE SHRI SANT SINGH BAL, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT NO. 1, NEW DELHI

I.D. No. 135/97

In the matter of dispute between :

Shri Bijender, Sewerman,
S/o Shri Kishan Singh,
C/o CPWD Mazdoor Union,
E-26, (Old qr.) Raja Bazar,
Baba Kharak Singh Marg,
New Delhi-110001. ...Workman

Versus

The Executive Engineer, (Civil),
J Division, CPWD,
East Block, R. K. Puram,
New Delhi-110066. ...Management

Appearances :

Shri B. K. Pd.—A/R for the workman.
Shri Bhisham Dev Mund—A/R for the Management.

AWARD

The Central Government in the Ministry of Labour vide its Order No. L-42012/03/96-I.R. (D.U) dated 30-5-97 has referred the following industrial dispute to this Tribunal for adjudication :—

> "Whether the action of the management of CPWD in terminating the services of Shri Bijender, Sewerman w.e.f. 15-9-93 is legal and justified ? If not, to what relief the workman is entitled ?"

2. Brief facts of this case as culled from record are that he was initially engaged on hand receipt basis as Sewerman and his services were terminated w.e.f. 15-9-93. He was transferred. He clamed seniority for counting the same towards regularization and raised industrial dispute but his services were terminated and the dispute of regularization became infructuous and after his termination he raised this dispute which resulted in the abover reference. His status is of workman and he has worked for the management. His services haved been illegally terminated without notice and payment of notice pay etc. in violation of the statutory provisions. It is also claimed that many persons junior to workman have been retained in service. The management has levelled the workman as muster roll and hand receipt worker on work order intentionally with a view to deny him work. The workman has been performing duty w.e.f. 11-7-85 and change of designation from hand receipt seewerman to work order sewerman denying him pay scale of Rs. 950—1500. He claims reinstatement.

3. Management has contested the case by filing written statement raising preliminary objections that the claimant has no cause of action as there does not exist any employer employee relationship between the management and the respondent workman. It is further stated that he was originally appointed on hand receipt in 'G' Division of CPWD, New Delhi and was transferred to the 'J' Division,

CPWD when it was created in February, 86. and on completion of the job his services were dispensed with and thereafter he was subsequently engaged on work order basis for particular period/job as contractor as terms and condition of the work order w.e.f. 30-6-87 and his services were dispensed with after the job was completed w.e.f. 15-9-93. The dispute has been wrongly raised illegally without application of mind by the competent authority. This court has no jurisdiction to award relief of reinstatement and regularization. There was ban in the CPWD to engage workman on hand receipt and muster roll since 1985 and that the claim of the claimant is frivolous and baseless and not permissible.

4. On merits the claim is stated to be misleading and is denied.

5. The written statement was followed by rejoinder wherein the controverted facts of the written statement were denied and contents of the claim statement were reiterated to be correct.

6. Thereafter both the parties adduced evidence. Management examined Shri Atul Gadg H M W 1 Executive Engineer while the workman examined himself as WW1 in evidence as witnesses.

7. Thereafter both the parties addressed arguments.

8. I have given my thoughtful consideration to the contentions raised on either side.

9. Admittedly claimant was initially engaged on hand receipt basis and according to the respondent management he worked on hand receipt basis w.e.f. 11-7-85 to 4-6-87 and on completion of said job his services were dispensed with w.e.f. 6-4-87. He was engaged for particular period as contractor w.e.f. 30-7-87 to 14-9-93 and performed and carried out job during the period 30-6-87 till 14-9-93 on work order basis and thereafter his services were terminated on 15-9-93. Thus it is evident from the averments made in the written statement by the respondent management that the workman has worked on work order basis for the period 1987 to 1993 for over six year 3 months commencing from 30-6-87 to September, 93 working on hand receipt basis. He has worked under the provisions of the work order of the CPWD which fact is also specifically admitted in cross examination during the deposition of the workman who examined himself as WW1 in the affidavit and has not been controverted by the respondent management. Thus it is proved that the workman has initially worked on hand receipt basis w.e.f. 1987 to 1993 continuously on work order basis under the control of management for about 7 years and thus it is proved that the workman has worked for 6 years three months during the period 6-4-87 to September, 93 as Sewerman and it is also proved that his services have been admittedly terminated on 15-9-93. He was not given any notice or notice pay or retrenchment compensation as required under the provisions of law. The termination of his services is, therefore, illegal without following the due process of law i.e. without notice of termination or without notice pay is illegal and is in violation of the provisions of law and, therefore, his termination is held to be illegal and contrary to law. Therefore the workman is entitled to be reinstated.

10. The workman has claimed full back wages. There is no material on record to show that the workman has been in employment during the period after his termination. Workman remained out of job during the period after his termination. He has claimed full back wages. It would serve ends of justice if the workman is awarded 40% of back wages during the period after his termination. Hence it is ordered that the workman be reinstated in service from the date of his termination (15-9-93) and he be given 40% of back wages during the period after his termination (15-9-93). Award is passed accordingly. File be consigned to the record room.

SANT SINGH BAL, Presiding Officer

Dated : 31-1-07

नई दिल्ली, 5 फरवरी, 2007

का.आ. 633.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार हैवी इंजीनियरिंग कार्पोरेशन लिमिटेड के प्रबन्धतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, नागपुर के पंचाट (संदर्भ संख्या सीजीआई टी/एनजीपी/151/2002) को प्रकाशित करती है, जो केन्द्रीय सरकार को 5-2-2007 को प्राप्त हुआ था ।

[सं. एल-42012/134/98-आई. आर. (डीयू)]

सुरेन्द्र सिंह, डेस्क अधिकारी

New Delhi, the 5th February, 2007

S.O. 633.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. CGIT/NGP/151/2002) of the Central Government Industrial Tribunal-cum-Labour Court, Nagpur as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of Heavy Engineering Corporation Ltd. and their workmen, received by the Central Government on 5-2-2007.

[No. L-42012/134/98-IR(DU)]

SURENDRA SINGH, Desk Officer

ANNEXURE

BEFORE SHRI A. N. YADAV PRESIDING OFFICER, CGIT-CUM-LABOUR COURT, NAGPUR

Case No. CGIT/NGP/151/2002 **Date : 18-1-2007**

Petitioner : Shri Kisan Vithal Deolkar,

Party No. 1 : N. S. Rode, Advocate, Behind Police Ground, Tukum, Shivajinagar, W. No. 3, Chandrapur, (M.S.).

Versus

Respondent : The Area Manager, Heavy Engineering .

Party No. II : Corporation Limited, 36, Ramkrishna Nagar, Khamla Road, Ajni Chowk, Nagpur.

AWARD

Dated the 18th January, 2007

1. The Central Government after satisfying the existence of disputes between Shri Kisan Vithal Deolkar, N. S. Rode, Advocate Behind Police Ground Tukum Shivajinagar, W.No. 3, Chandrapur (M.S.) Party No. 1 and The Area Manager Heavy Engineering Corporation Limited 36, Ramkrishna Nagar, Khamla Road, Ajni Chowk, Nagpur Party No. 2 referred the same for adjudication to this Tribunal vide its Letter No. L-42012/134/98/IR(DU) Dt. 21/10/1998 under clause (d) of Sub-Section (1) and Sub-Section (2A) of Section 10 of Industrial Dispute Act, 1947 (14 of 1947) with the following schedule.

2. "Whether the action of the Area Manager Heavy Engineering Corporation Ltd., Nagpur in terminating Shri Kisan Vitthal Deolkar, General Mazdoor is legal and justified? If not, to what relief the workman is entitled ?"

3. The reference came up for hearing on 18-1-2007 before this Tribunal. It appears that since 25-10-2004 nobody is appearing on behalf of the Petitioner as well as on behalf of Respondent. In fact the petition is fixed for cross-examination of the workman, however workman is not attending the court in fact he was expected to offer himself for cross-examination. Since he is not attending the court there is no other go than to dismiss the petition for his default. In such circumstances the petition is disposed off for default of the petitioner and the reference is returned with No Dispute Award.

Hence this award.

Date : 18-1-2007.

A. N. YADAV, Presiding Officer

नई दिल्ली, 5 फरवरी, 2007

का.आ. 634.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार आर्डनेन्स फैक्ट्री के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, नागपुर के पंचाट (संदर्भ संख्या सीजीआई टी/एनजीपी/108/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 5-2-2007 को प्राप्त हुआ था ।

[सं. एल-14012/5/95-आई.आर. (डीयू)]

सुरेन्द्र सिंह, डेस्क अधिकारी

New Delhi, the 5th February, 2007

S.O. 634.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. CGIT/NGP/108/2004) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Nagpur as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of Ordnance Factory and their workman, received by the Central Government on 5-2-2007.

[No. L-14012/5/95-IR(DU)]

SURENDRA SINGH, Desk Officer

ANNEXURE

BEFORE SHRI A. N. YADAV PRESIDING OFFICER, CGIT-CUM-LABOUR COURT, NAGPUR

Case No. CGIT/NGP/108/2004 Date : 19-1-2007

Petitioner : Shri Vithal Rao Rajaram Meshram,

Party No. 1 : R/o Ajni Chowk, Wardha Road, Nagpur (M.S.)

Versus

Respondent : The General Manager, Ordnanace Factory

Party No. II : Ambazari, Nagpur-440006.

AWARD

Dated the 19th January, 2007

1. The Central Government after satisfying the existence of disputes between Shri Vithalrao Rajaram Meshram, R/o Ajni Chowk, Wardha Road, Nagpur (M.S.) Party No. 1 and The General Manager, Ordnance Factory, Ambazari, Nagpur Party No. 2 referred the same for adjudication to this Tribunal vide its Letter No. L-14012/5/95/IR(DU) Dt. 27-3-1996 under clause (d) of sub section (1) and sub-section (2A) of Section 10 of Industrial Dispute Act, 1947 (14 of 1947) with the following schedule.

2. "Whether the action of the Management of Ordnance Factory represented through the General Manager Ambazari, Nagpur in dismissing the services of Shri Vithalrao Rajaram Meshram, is just, proper and legal? If not, to what relief the workman is entitled to ?"

3. Nobody appeared on behalf of the petitioner Mr. Shinde appeared for the Management through his junior. The claim was referred to CGIT Jabalpur, because the dispute had taken, place in the year 1966 and consequent upon the establshment of this Tribunal. It has been transferred to it. Neither before CGIT Jabalpur nor before this Tribunal the petitioner appeared and filed his Statement of Claim. On receipt of this petition notice was issued to the petitioner as well to the Management again. His notice returned with the endorsement that the address is not known , which indicates that either the address was wrong given by petitioner himself. The notice was issued on the given address in the reference itself. In such circumstances it seems that the petitioner is not interested, he is not filing any Statement of Claim nor appearing before the Court right from 1996. Hence it is dismissed for the default of the petitioner and the reference is answered in the negative that he is not at all entitled for any relief as claimed by him.

Hence this award.

Date : 19-1-2007.

A. N. YADAV, Presiding Officer

नई दिल्ली, 5 फरवरी, 2007

का.आ. 635.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सुपरिन्टेन्डेन्ट ऑफ पोस्ट ऑफिसेस् के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण, चेन्नई के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 05-2-2007 को प्राप्त हुआ था ।

[सं. एल-40012/148/93-आई आर (डीयू)]

सुरेन्द्र सिंह, डेस्क अधिकारी

New Delhi, the 5th February, 2007

S.O. 635.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal, Chennai as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of Supdt. of Post Offices, and their workmen, which was received by the Central Government on 5-2-2007.

[No. L-40012/148/93-IR (DU)]

SURENDRA SINGH, Desk Officer

ANNEXURE

BEFORE THE INDUSTRIAL TRIBUNAL, TAMIL NADU, CHENNAI-600104

Thursday the 4th day of January, 2007

PRESENT:

Thiru M. Venugopal, B.A.M.L. Presiding Officer, Industrial Tribunal

Industrial Dispute No. 199 of 1994

Between

M/s. Seeniammal, D/o Mooken,
Kattunaicken Street, Vasudevanallur 627 758.

And

1. The Superintendent of Post Offices,
   Kovilpatti Division,
   Kovilpatti 627 701.
2. The Sub Post Master,
   Vasudevanallur Post Office,
   Vasudevanallur 627 705.

REFERENCE

Order No. L-40012/148/93 IRDU Dated 16-11-94

Govt. of India, Ministry of Labour, New Delhi.

This Industrial Dispute coming on for final hearing on Thurday, the 28th day of December, 2006, upon perusing the Claim Statement, Counter Statement and all other material papers on record and upon hearing the arguments of Mr. P.V.S. Giridhar, Advocate, for the Petitioner and Thiru K.M. Venugopal, A.C.G.S.C. Advocate, for the Respondents and this industrial dispute having stood over till this day for consideration, this Tribunal made the following

AWARD

The Government of India have referred the following issuse for adjudication by this Tribunal :

> "Whether the action of the Senior Superintdent of Post Offices, Kovilpatti in terminating the services of Ms. Seeniammal, Sweeper-cum-Water Carrier w.e.f. 20-12-1991 is justified? If not, to what relief she is entitled to ?"

2. The averments of the Claim statement of the Petitioner are as follows :

The Governemnt of India, Ministry of Labour, by Order No. L-40012/148/93 IRDU has made the following reference whether the action of the Senior Superintendent of Post Offices, Kovilpatti in terminating the services of Ms. Seeniammal, Swepper-cum-water Carrier w.e.f. 20-12-91 is justified ? If not, to what relief she is entitled to ?

3. The Petitioner was appointed as Sweeper in the Office of the 2nd respondent in the year 1970. She has been rendering continuous service since then. Throughout her service she has won appreciation from her superiors and she has an unblemished record of service while so the 2nd respondent developed personnel animosity against the Petitioner as she refused to perform his personnel domestic chores. To the shock and surprise of the Petitioner she received a Memo dated 5-12-91 listing the following imputations and a warning that she would be terminated, if she does not rectify the same. This was followed by another warning dated 12-12-91. The Petitioner submitted her explanation on 18-12-91 denying the imputations made against her. However without considering the explanation and without notice or an enquiry the 2nd Respondent terminated the petitioner's service as per Order dt. 20-12-91. Against the said order the Petitioner preferred an appeal to the 1st Respondent, but no reply was received by the Petitioner. Thereafter the petitioner sought the assistance from the District Legal Aid Committee being a poor woman belonging to a Scheduled Tribe. The legal Aid Authority addressed some letter to the 1st respondent; by a letter dated 6-5-1992 to the Legal Aid Committee, the 1st respondent stated that termination order issued was found to be in order.

4. Against the order of termination the Petitioner filed an Original Application O.A. No. 1210 of 1992 before Central Administration Tribunal at Madras. In the said O.A. the Tribunal on 22-9-92 has held that persons who have got a remedy under the Industrial Disputes Act should first exhaust that remedy. It further held that it is open to the applicant to raise a dispute under the I.D. Act. Hence the applicant filed a 2-A petition under the I.D. Act and the Govt. of India, Ministry of Labour by an Order dated 16-11-94 has referred the matter for adjudication by this Tribunal. the Termination order dated 20-12-91 is in violation of established principles of law and liable to be set aside

for the following among other grounds: (i) The order of termination is arbitrary, unreasonable and illegal and violative of the principles of natural justice. (ii) the Impugned order has been passed without notice and without holding an enquiry. The petitioner was denied an opportunity to herself. (iii) he charges listed in the Memos dt. 5-12-91 and the charges on the basis of which she was termination on 20-12-91 are not the same. The termination amounts to termination simpliciter and therefore it amounts to retrenchment under Sec. 2(oo) of the I.D. Act. (iv) Neither any notice nor any retrenchment compensation has been paid to the petitioner prior to the termination and the same is in violation of Sec. 25F and Sec. 25N of the I.D. Act and hence the petitioner is deemed to be in service as the termination is void *ab initio. (v)* The 2nd Respondent has not referred to an rule udner which the imputation in the letter dt. 5-12-91 and 12-12-91 amounts to a misconduct. As the petitioner refused to perform the domestic chores of the 2nd respondent as demanded by him, the 2nd respondent issued the impugned order in a vindictive spirit. This is malafide action and amounts to an unfair labour practice prohibited by Sec. 25T of the I.D. Act. The 1st respondent has mechnically agreed with the 2nd respodnent without an independent application of mind. vi) The 2nd respondent is not the competent authority to take action against the petitioner or to pass an order of termination and hence the order dated 20-12-91, is *null and viod.* The respondent have failed in their obligation under Part III of the Constitution and in their duty to act as a model employer. The imputations listed in the aforesaid letters are vague and bereft of any particulars. In any case they do not disclose any misconduct as illegal. Hence the impugned order is liable to be set aside. The petitioner therefore prays that this Tribunal may be pleased to hold that the action of the Senior Superintendent of Post offices, Kovilpatti in terminating the services of petitioners w.e.f. 20-12-91 is not justified and direct the respondents to reinstate the petitioner w.e.f. 20-12-91 with back wages and consequential benefits and thus render justice.

5.The averments of the Counter statement filed by the Respondent are as follows :

As per records Mrs. Seeniammal was working as Sweeper cum Water Carrier of Vasudevanallur S.O. from 1-1-1993. The Sub Post master, Vasudevanallur found out that the work of the petitioner was not satisfactory. He issued a notice on 5-12-91, calling for explanation to the various irregularities in her work with a warning that she would be removed from service. The petitioner received the memo on 5-12-91. She had not replied to the Memo. But on 12-12-91, she was washing her sanitary napkins in the office well using the same bucket by which she used to fetch water to the office. The Sub Post Master issued another notice on 12-12-91 which she received on 13-12-91. She replied to the notices on 18-12-91. The Respondents submit that Mrs. Seeniammal appealed to the Senior Superintendent of Post offices on 13-1-92. Necessary enquiry was conducted on her petitioner by the Sub Divisional Inspector (Postal), Sankarankovil. It was found out on enquiry that the petitioner had not at all rectified her mistakes and not improved her work. Therefore, the action of the Sub-Postmaster, Vasudevanallur, in terminating the petitioner is in order. The petitioner had submitted a Petition to Tenkasi legal Aid and Advice Committee. The facts were informed to the Committee. The petitioner again filed Petition at Central Adminstrative Tribunal, Madras in O.A. No. 1210/92. Her petition was dismissed on 22-9-92. Hence the department objects taking the same issue again before the Industrial Tribunal.

6. As regards para. 1 of the Claim petition, the respondent submit that the petitioner was working as Sweeper cum-Water Carrier, of Vasudevanallur S.O. from 1-1-83 only as per records. He work of the petitioner was not satisfactory. She used to defy the instructions of the previous Sub postmasters also. The Sub-Postmaster has no personal animosity against her and never approached her for his personal domestic chore. She had not alleged any such things in her Petition dt. 13-1-92 to the Senior Superintendent. She-alleged personal animosity out of refusal to perform Sub Postmaster's personal domestic chore, only in the Petition dt. 4-3-92, to the Legal Aid and Advice Committee.

7. As regards, para 2 of the Claim petition the respondent submit that, even before this notice dt. 5-12-91, the Sub-Postmaster, Vasudevanallur had instructed her orally several times. She did not take it seriously and make amends in her work. Therefore, the Sub-Postmaster Vasudevanallur issued the notice.

8. As regards para. 3 of the Claim petition the respondents submit that the petitioner was a part time contingent official. No prescribed procedure is outlined in the Manuals of the department and no instructions are there in the procedure for taking action against the part time contingent official. In the absence of clear cut procedure rules of natural justice has to be followed. The petitioner was served with notice on 5-12-91 and 12-12-91. She had neither amended her quality of work nor improved her functioning. Hence she was terminated on 20-12-91.

9. As regards para. 4 of the Claim petition the respondents submit that even before the enquiry into her appeal dt. 13-1-92 regarding the dismissal of the respondent from service to find out the facts for deciding the appeals was completed and reply given, the petitioner took up the matter through Legal Aid and Advice Committee, Tenkasi, Hence, the reply was given to the Committee on 6-5-92, based on the outcome of the departmental enquiry. The order of terminating has been passed after serving notice dt. 5-12-91 and 12-12-91 only. There is no specific rule or procedure for part time contingent officials. The petitioner has to work for a few hours only at the Post Office whereas she was in the habit of attending all her domestic chores in

the office regularly. The Sub Postmaster, Vasudevanallur, then was in selection grade and is competent to terminate her. It is submitted that no rule or norm was violated by the respondents and it is prayed that the above petitioner may be dismissed.

10. On the side of petitioner, WW1 Tmt. Seeniammal was examined and exhibits W1 to W10 were marked. On the side of Respondents, MW1 Thiru V. Velusamy was examined and Exhibits M1 to M12 were marked.

11. The Point that arises for consideration is : Whether the action of the Senior Superintendent of Post Offices, Kovilpatti in terminating the services of Ms. Seeniammal, Sweeper cum-Water Carrier w.e.f. 20-12-91 is justified ? If not, to what relief she is entitled to ?

12. POINT : Tmt. Seeniamal in her evidence has deposed that she joined as Sweeper in the year 1970 in the Second Respondent office at Vasudevanallur and at that time her salary per month was Rs. 8.16 N.P. and that she used to put her signature while receiving the salary and she used to sweep the office two times and will fatch water and that she used to clean the tables and chairs and the used to do other works and that she has not received any Memo for not doing work on a particular day and the Post-masters have praised her work as she has done well and she has personal animosity between herself and last Postmaster Thiru Kadarkarai and hence he found fault with her work and he gave memo Ex. W1dt. 5-12-91 to her and that she was not given any opportunity to give any reply to Ex. W1 and another Memo dt. 12-12-91 Ex. W2 was given to her and for the said two Memos she gave an explanation Ex. W3 and without scruitinising the same she was terminated from a service and Ex. W4 is the Order of Termination and while terminating her, no enquiry was conducted and no notice was given to her regarding termination and she has put in 23 years of service continuously with the respondent and the letter dt. 13-1-92 Ex. W5 given to Superintendent and for that no reply was given and hence she gave a Petition to the legal Aid Committee on 4-3-92 Ex. W6 and reply given to the Legal Aid Committee is Ex. W7 and she filed a Petition before the Central Administrative Tribunal, since no action was taken, and she was directed to file a petition before the Industrial Tribunal as per Order Ex. W8 and Ex. W9 is the Petition filed by the labour Officer, and Ex. W10 is the Failure of Conciliation report and at the time when she was terminated she received a monthly salary of Rs. 195 and prays for reinstatement with continuity of service and backwages.

13. MW1 Thiru N. Velusamy in his evidence has stated that the Petitioner/employee had not discharged her duty as a Sweeper atleast to the minimum satisfaction of the department and she created nuisance to the department and misbehaved with officials of the department and she was issued a Memo on 5-12-91 calling for her explanation to the charges stated therein and that the petitioner had not replied to the same and that the Chargs Memo dt. 5-12-91 is Ex. M1 and even after knowing the contents of the charges mentioned in Memo dt. 5-12-91 within few days after receipt of Charge Memo the Petitioner/ Employee dt. 12-12-91 committed an offence of washing her sanitory napkins in the Office of the Second respondent by using the same bucket drawing water from the well and the Second respondant issued another memo dt. 12-12-91 Ex. M2 and the reply of the Petitioner/Employee dt. 18-12-91 is Ex. M3 and even after issuance of the above Charge memo and the reply dt. 18-12-91 still the petitioner/ employee had not worked properly as a Sweeper and not discharged her duties entrusted to her properly and she continued to make nuisance and based on the Second Charge Memo she was terminated by an order dt. 20-12-91 Ex. M4, passed by the Second respondent and as against the order termination an appeal was preferred on 13-1-92 to the first respondent and the first respondent directed the Special Divisional Inspector (Postal) Sankarankoil Sub-Division to make an enquiry and in the enquiry it was held that the petitioner's allegations in the appeal against the Sub-Postmaster was false, frivolous and cunningly cocked up and the enquiry further revealed that the petitioner did not perform her duties properly and she was spoiling the atmosphere of the office and the appeal of the petitioner is Ex. M5 and the Report of the Special Divisional Inspector/ Postal (SDI) Sakarankoil dt. 10-3-92 is Ex. M6 and the first respondent confirmed the Order of Termination after perusing the enquiry report and that the petitioner later filed a case before the Senior Administrative Assistant, Taluk Legal Aid and Advice Committee, Sub-Court, Tenkasi 627 811 and the First respondent's reply dt. 6-5-92 is Ex. M7 and the case before the Legal Aid Committee was dismissed.

14. MW1 Thiru N. Velusamy in his evidence has deposed that O.A. 1210/92 filed by the petitioner before the Central Administrative Tribunal was dismissed and the Order dt. 22-9-92 is Ex. M9 and I.D. No. 199/94 was filed before this Court and the dismissal order is Ex. M10 and W.P. No. 13799/97 was filed and the matter was sent back to the Industrial Tribunal as per Order Ex. M11 and M12 is the letter from the Child Development Scheme Officer, Tirunelveli.

15. The Petitioner's Counsel submits that the Order of termination dtd. 20-12-91 is illegal and against the principles of natural justice, since the impugned order was passed without notice and without holding an enquiry and that the petitioner was deprived of an opportunity to defend herself and the charges mentioned in the Memo dt. 5-12-91 and the charges on the basis of which the petitioner was terminated on 20-12-91 are not the same and Petitioner's termination amounts to termination simpliciter and therefore it amounts to retrenchment under Section 2(oo) of the I.D. Act and that the petitioner was not given the retrenchment compensation and therefore, there is violation under Sec. 25-F and Section 25-N of the I.D. Act and resultantly the

petitioner is deemed to be in service, since the termination is *void ab initio.*

16. It is the further case of the petitoner that the second respondent has not referred to any rule under which the imputations in the letter dtd. 5-12-91 and 12-12-91 amounts to a misconduct and since the petitioner refused to perform the domestic chores of the second respondent as demanded by him, the impugned order was issued by the second respondent in a vindictive manner and this malafide action amounts to an unfair labour practice as per Section 25 (T) of the I.D. Act and that the second respondent is not the competent authority to take action against the petitioner or to pass an order of termination and hence the order dtd. 20-12-91 is *null and void* and the impugned order is liable to be set aside.

17. According to the learned Counsel for the Respondents, the petitioner was working as a Sweeper-cum-Water Carrier of Vasudevanallur S.O. from 1-1-83 and the Second Respondent found that the work of the petitioner was not satisfactory and hence a notice dtd. 5-12-91 Ex. W1 was issued to the petitioner calling for her explanation to the irregularities in her work with a warning that she would be removed from service and that the petitioner has not replied to the Memo dtd. 5-12-91 and on 12-12-91, the petitioner was washing her sanitory Napkins in the office of the Second Respondent by using same bucket and another notice Ex. W2 dtd. 12-12-91 was issued by the second respondent which was received by the petitioner on 13-12-91 and the petitoner gave a reply dtd. 18-12-91 and that the petitoner made a representation to the Senior Superintendent of Post-offices on 13-1-92 and Enquiry was conducted by the Special Divisional Inspector/Postal Sankarankoil and the enquiry it was found out that the petitioner had not rectified her mistake and not improved work and therefore the action of the second respondent in terminating the service of the petitioner is in order and the facts were informed to the lagal Aid and Advice Committee, Tenkasi, on the petition submitted by the petitioner and that the petitioner is used to defy the instructions of the previous Sub-Postmasters also and that the work of the petitioner was not satisfactory and that the Sub-Postmaster has no personal animosity against the petitioner and never approached the petitioner for his personal domestic work and only in the Petition dtd. 4-3-92 to the Legal Aid and Advice Committee, the petitioner alleged personal animosity out of her refusal to perform Sub-Postmaster's personal domestic work and even before the Ex. W1 notice dtd. 5-12-91, the second respondent had instructed her orally several times and the petitioner did not mend her work and therefore the second respondent issued the notices and since the petitioner was a part time contingent official, no prescribed procedure is mentioned in the manuals of the department and instructions are found in the procedure for taking action against the petitioner and in the absence of procedure, rules of natural justice were to be followed and the petitioner was accordingly given memos dtd. 5-12-91 and 12-12-91 and since she has not mended her quality of work nor she improved her functioning she was terminated on 20-12-91, as per Ex. W4 and the petitioner has to work only for few hours at the post-office whereas she was in the habit of all the domestic chores in the office regularly and the second respondent was in Selection grade and was competent to terminate her and prayed for dismissal of the petition.

18. The Learned Counsel for the petitioner relied on AIR 1969 Supreme Court 983 @ 984 between Central Bank of India Ltd., v. Prakash Chand Jain, wherein it is held as follows :

> "it is true that, in numerous cases, it has been held that domestic tribunals, like an Enquiry Officer, are not bound by the technical rules about evidence contained in the Evidence Act, but it has nowhere been laid down that even substantive rules, which would form part of principles of natural justice, also can be ignored by the domestic tribunals. The principle that a fact sought to be proved must be supported by statement made in the presence of the person against whom the enquiry is held and that statements made behind the back of the person charged are not to be treated as substantive evidence, is one of the basic principles which cannot be ignored on the mere ground that domestic tribunals are not bound by the technical rules of procedure contained in the Evidence Act. AIR 1964 SC 719(722) & AIR 1964 SC 708, Rel. on."

19. The Petitioner's Counsel referred to the decision AIR 1972 Supreme Court 330 between M/s. Bareilly Electricity Supply Co. Ltd., v. The Workman and others, wherein it is held as follows :

> "Constitution of India, Art. 226—Domestic Tribunals—Observance of principles of natural justice—Though Evidence Act is not applicable to the Industrial Tribunals that does not mean that where issues are seriously contested and have to be established and proved the requirements relating to proof can be dispensed with ...(X—Ref : Industrial Disputes Act (1947), Ss. 10, 11) .(X—Ref : Civil P.C. (1908), 0.19), AIR 1957 SC 882, Explained."

20. On the side of the Petitioner, reliance was placed on to the decision 2001-I—LLJ p. 1118 between State of Gujarat and Others, And Pratam Singh Narsingh Parmar, wherein it is held that

> "Industrial Disputes Act 1947—Secs. 2(j) and 25-F—Industry—meaning of —No facts given by person concerned to show establihment (Forest Department, in this case was not industry—Challenge to termination of service on ground of non-compliance of with Sec. 25-F, held therefore not sustainable)."

21. The learned Petitioner's Counsel referred to 2002-III-LLJ p. 820 between Marathwada Sarwa Shramik Sanghatna And Assistant Director, Department of Social Forestry, Parbhani, wherein it is held as follows :

> "Industrial Disputes Act 1947—Sec. 2(j)—Maharashtra Recognition of Trade Unions and prevention of Unfair Labour Practices Act, 1971—Sec. 3(7)—'Industry'—Meaning of—Department of Social Forestry engaged in growing and preserving forests—It activity not shown to be of commercial or industrial nature—Held not industry and its complaint under Sec. 28 of MRTU and PULP Act therefore not maintainable."

22. The learned Respondent's Counsel relied on the decision 1998 SAR (Civil) 533 between Uptron India Ltd. Versus Shammi Bhan & Anr., wherein it is held as follows :

> "Industrial Disputes Act Sec. 2(oo) Clause (bb) 'Retrenchment'—Definition of —The term means termination of service of a workman by the employer for any reason whatsoever—Termination by way of punishment as a consequence of disciplinary action—Not to amount to 'Retrenchment'—Voluntary retirement of workman, retirement on reaching age of superannuation if contract of employment contained a stipulation to that effect would also not amount to 'Retrenchment'—Likewise termination of service on ground of continued ill-health of the workman and termination on account of non-renewal of contract of employment on expiry of the term of that contract—Would also not amount to 'Retrenchment'."

23. In Ex. W1 notice dtd. 5-12-91 addressed to the petitioner the imputations against the petitioner are (1) after sweeping the office, table, chair counter are not swiped with cloth inspite of repeated telling (2) while moving the chair and stool the same are not looked after as her own properties and they are moved with a view to cause damage (3) while putting the bucket in the well the same was handled with noise as a result of which the bucket was broken (4) inspite of numerous telling no cob webs were removed (5) all the waste matters were put in front of the office thereby spoiling the place (6) using lavatory and keeping it in an untidy manner (7) without permission of the Postmaster employing other persons for sweeping and fetching water (8) without informing the Postmaster coming to the office at her convenient time and even at the time of leaving office, leaving office without informing and (9) without informing the Postmaster and without informing employing another person and leaving the office. In Ex. W2 dtd. 12-12-91 notice, it is stated that instead of keeping the office cleanly for keeping the office in an untidy manner as per Office Memo No. 231 dtd. 5-12-91 they were informed and inspite of the same, the defects were not rectified and instead on 12-12-91 morning, she used cloth or wash near the well and this is grave offence and the same bucket is used by the office staff for drawing water and without informing left abruptly and these kinds of jobs will have to be done only at home and coming to office using the latrine, washing teeth, and washing sanitary cloth are some of the defects found in the work of the petitioner and if these defects are not rectified, it is also informed that the petitioner will be removed from service. Ex. W3, is the reply of the petitioner wherein it is stated *inter alia* that she is discharging duties to her satisfaction and sincerely and to her conscience there are no defects in her work and if found to be defective then in future she will discharge her office duties without any defects. Ex. W3 reply is addressed to the Second respondent. Ex. W4 dtd. 20-12-91 is the Order of termination issued to the petitioner, wherein it is stated that the explanation of the petitioner is not satisfactory and inspite of repeated instructions the petitioner is not at all performing the works satisfactorily and that she is not obedient and always shouting inside the office, when the Postmaster asked her to work neatly and properly and that the petitioner is coming and going to the post office as the likes and it is very difficult to extract work from her and therefore the petitioner is terminated from the post of Sweeper-cum-Water Carrier with immediate effect. In Ex. W3, reply of the petitioner, she has denied each and every imputation attributed against her. In short, in Ex. W3 reply of the petitioner, the petitioner has denied specifically that she has not put the waste matters in front of the office at any point of time and while drawing water from the well even for once she has not created any noise and not broken the bucket and she has specifically stated that while moving the chair and steel, she used to upkeep the same, as if it belonged to her and she has denied the imputation No. 1 regarding the table and chair counter cleaning etc. and stated categorically that she never went without cleaning the same. The imputation that the petitioner is in the habit of arranging some other person and leaving the office is also denied in Ex. W3 by the petitioner. Even the imputation that the petitioner used to go and come without informing the Postmaster is also denied by the petitioner. The other serious imputations that the petitioner without permission from the Postmaster is allowing other persons to sweep and fetch water is also denied by the Petitioner in Ex. W3 reply. The substance of the Ex. W3 reply of the petitioner is that the imputations mentioned in Ex. W1 notice are denied categorically by the petitioner. In Ex. W5 dtd. 13-1-92 of the Petitioner's appeal addressed to Senior Superintendent of Post-offices, Kovilpatti zone Post office, Kovilpatti, *inter alia* a request is made for granting employment. For the Petition of the Petitioner dated. 4-3-92. Ex. W6 addressed to the President, Legal Aid Committee, Tenkasi, Ex. W7 reply dt. 6-5-92 was given by the Superintendent of Post Offices, Kovilpatti addressed to the Senior Administrative Assistant, Taluk Legal Aid and Advice Sub Court, Tenkasi, wherein it is stated that:

"Necessary enquiries were made through the Special Divisional Inspector (Postal) Sankaran Koil and it is found that the termination order issued by the S.P. Vasudevanallur is in order."

In Ex. W9, Petition filed under Sec. 2A of the I.D. Act before the Labour Officer, Madurai, the petitioner prayed for reinstating her in service w.e.f. 20-12-91 with all consequential benefits including backwages.

24. Ex. M11 is the Order dtd. 25-3-2004 passed in W.P. No. 13799/97 by the Hon'ble High Court, Madras. As seen from the order, the Writ Petition filed by the petitioner was allowed by the Hon'ble High Court and the matter was sent back to the Industrial Tribunal to deal with the disputes in accordance with the law. In Ex. M12, letter from the Child Development Officer, Tirunelveli addressed to the First respondent, it is stated that Smt. Seeniammal is working as Assistant in Vasu-Harijan Colony Anganvadi from 1-7-1982 as per Commissioner's Order No. 218/2399/82 dt. 27-6-1982.

25. It is pertinent to point out that originally the term 'retrenchment' was not defined either in the repealed Trade Disputes Act, 1929 or in the Industrial Disputes Act. However, the definition was inserted by the Industrial Disputes (Amendment) Act 1953. In Sri Rangam Co-operative Urban Bank Ltd. *Vs.* Labour Court, Madurai (1996) II LLJ P. 216 it is held that in view of the wide amplitude of the language of the definition of 'retrenchment', the termination of the service of the workman was held to be retrenchment. It is significant to point out that what is relevant is the fact of employment and not the legality of otherwise, of it. The term 'retrenchment' comprehends a termination of service. But it is not that a every termination of service is retrenchment. To put it differently, every case of a discharge simpliciter may not be a case of retrenchment as per dicision (1957) I LLJ 243 @ 247 Barsi Light Railway Co. Ltd. *Vs.* K. N. Joglekar.

26. In (1980) II LLJ P. 72 Santhosh Gupta, *Vs.* State Bank of India, the Hon'ble Supreme Court has observed :

"If due weight is given to the words' the termination by the employer of the service of a workman for any reason whatsoever' and if the words for any reason whatsoever' are understood to mean what they plainly say, it is difficult to escape the conclusion that the expression 'retrenchment' must include every termination of the service of a workman, by an act of the employer."

27. In (1957) I LLJ 243 Barsi Light Railway Co. Ltd. *Vs.* K. N. Joglekar, the meaning of the 'retrenchment', in its ordinary acceptation was explained.

28. In (1998) III L. L. N. P. 388 it is observed that :

"Where an employer directs the employee to leave the job and quit the place, it is not an act done by the employee, but is an act done by the employer, and hence it cannot be characterised as a voluntary resignation and in such an event the employee is entitled to the retrenchment compensation."

29. In (1980) I LLJ 273 between Raghavachari *Vs.* Madras Printers and Lithographers Association, it is held that :

"The concept of surplus age is no longer sustainable, in view of the definition of retrenchment meaning the termination by the employer, of the services of the workman for any reason whatsoever."

30. It is to be pointed out that on the plain language of definition 'retrenchment' takes place only where the employer terminates the service of the workman notwithstanding the employment of the words 'for any reason whatsoever' wherever there is a claim for retrenchment, it must be established that "there is a termination of service of the workman by the employer as per decision (1987) I LLJ 141, 155, 158, English Electric Company of India Ltd. *Vs.* Industrial Tribunal, Madras."

31. In 1991 I LLJ 501 Between Yashwant Singh Yadav and State of Rajasthan and others, it is held that :

"The definition does not make any distinction between a full-time employee and a part-time employee. It does not lay down that only a person employed full-time will be taken to be workman and that one who is only a part-time employee should not be taken to be a workman. What is required is that the person should be employed for hire to discharge the work-manual, skilled or unskilled etc. in an industry. If this test is fulfilled, a part-time employee will also be workman as is a full-time one."

"In the instant case, there is a clear violation of the provisions of Sec. 25 F and the termination amounts to retrenchment and the provisions of Sec. 25F have not been followed and as such the retrenchment is not valid and *non est*."

32. In (1985) I LLJ P. 74 between Deshraj Sood and Industrial Tribunal and others, it is held that :

"Whether the termination is brought about by voluntary or involuntary action whether that is produced by over act or by operation of the provisions of standing orders, the termination would be retrenchment within the meaning of S.2(oo). Termination without compliance with the provisions of S. 25F renders the termination *void ab initio* and inoperative. The petitioner shall be deemed to be in service and be entitled to arrears of salary."

33. In 2000 LLR P. 316 Commissioner, Ongole Municipality *Vs.* Kunchak Sreenu and Others, it is held that :

"A person in Government service can also be a workman under the Industrial Disputes Act."

34. In 2001 LLR P. 460 Coal India Limited *Vs.* Presiding Officer, Labour Court No. 3 and Others, it is observed that :

"Part-time Sweepers engaged daily will be a Workman under the I. D. Act."

35. In 2003 LLR P. 663 Municipal Board Pradap Garh an another, *Vs.* Labour Court, Bhilwara and Others, it is held that,

"A Part-time employee, even on daily wages will be a workman under the I. D. Act and hence entitled to the protections as available under the Act."

36. In 2003 LLR 403, State of Haryana *Vs.* Maman Ram and another, it is held that :

"Termination of a workman working for 11 years will be set aside when retrenchment compensation has not been paid at the time of his termination."

37. In 2005 LLR at P. 11 Executive Engineer, Bhubaneshwar Electricals Division, Grid Co. *Vs.* Presiding Officer, Labour Court, Bhubaneshwar and others, it is held that :

"Termination of workmen having worked for more than 400 days continuously Sans retrenchment composition will be unjust and hence their reinstatement."

38. When there a is non-compliance of Section 25F of the Act workmen will be entitled to the relief of reinstatement with full backwages and continuity of service as per decision 2004 LLR 756 R. Radhakrishnan *Vs.* Presiding Officer, Labour Court and another.

39. In 2004 LLR P. 162 Municipal Corporation of Delhi *Vs.* Sanjay Kumar and others, it is held that :

"When an employer has not paid retrenchment compensation at the time of terminating the service of worker reinstatement will be appropriate and High Court will not interfere in Writ."

40. In 1997 II LLJ P.959 between Atam Prakash and others, *Vs.* State of Haryana and Others, it is observed that :

"In order to be a workman within Section 2 (s) of the Act, one should be employed to do the work in that industry and there should be employer-employee or Master and servant relationship."

41. In 1994 LLR 528 P. K. Kumaran, Chundanathu Idukki Jilla Motors Mazdoor Sangh (BMA) an another, it is observed that :

"If an employer does not comply with Section 25 of the Act in compensating their retrenchment of a conductor the latter will continue to be in service even when the bus had been sold."

42. In AIR 1986 Supreme Court 1680 S. Govindaraju *Vs.* K. S. R. T. C., it is held that :

"Section 25F Termination of service—Appellant having worked as Bus conductor on temporary appointment for more than 240 days—Ground. Not found suitable for post— Order also directing removal of his name from select list denying further chance for appointment. No opportunity given to appellant to explain— Order of termination set aside being void and illegal. Appellant directed to be treated in service. Backwages etc. directed to be paid."

43. In 1989 (Suppl.) (2) Supreme Court 97, C. Narottam, Chopra *Vs.* Presiding Officer Labour Court, it is held that :

"Section 25 F—Termination of Service—Non-Compliance with Section 25F provisions. No notice. No compliance–Termination illegal reinstatement with full backwages ordered."

44. In 1998 I LLN 959 All India Radio *Vs.* Santhosh Kumar and another, it is held that :

"Section 25F—Termination found violative of Section 25F of the Act—Order of termination set aside— Ordered reinstatement with all benefits."

45. At this juncture, it is significant to point out that Section 25-F enjoins that the person claiming protection should be (1) having the relationship of Employee with the Employer, (2) he should be a workman within the meaning of Section 2 (s) of the Act, (3) the establishment in which he is employed should be an industry within the meaning of Section 2 (j) and (4) he should have put in not less than one year of continuous service as specified by Section 25-B under the employer and these conditions are cumulative and even if any one of these conditions is absent, the provisions of this Section will not be attracted.

46. As a matter of fact, the employee/workman will have to establish that he has the right to continue in service and that the said service was terminated without specifying the ingredients of Section 25F of the I. D, Act.

47. It cannot be gain said that the requirement of Payment of Compensation is an essential prerequisite for valid retrenchment of a workman, the non-compliance of which will make the retrenchment invalid and inoperative, as per decision (1970) II LLJ 306, 314, Ramakrishnan, Ramnath, *Vs.* Presiding Officer, Labour Court. Further, the aspect of retrenchment compensation is significant only when the employment is regular.

48. It is to be pointed out that if a workman is retrenched without payment of compensation, he has two rights (i) he can challenge the Order of Retrenchment itself as *null and void* and to seek reinstatement by raising an Industrial dispute (ii) he can also claim compensation if he does not desire the reinstatement relief (in the alternative.)

49. In Mohanlal *Vs.* Management of Bharat Electronics Ltd. 1981 Lab. IC 806, it is observed by Hon'ble Supreme Court that :

"If the termination of service is void and inoperative *ab initio*, there is no question of granting reinstatement, because there is no cessation of service and mere declaration follows that the workman continues in service with all consequential benefits."

In such an event, the ingredients of Section 11A will not be attracted as per decision 1989 Lab. IC 1914, 1919, between Bharat Heavy Electricals Ltd. *Vs.* R. V. Krishnarao.

50. In Kamataka Electricity Board *Vs.* Pyare Jan (1999) I LLJ 715, it is held that :

"Termination of workmen without complying with Section 25F, though void and the workmen were entitled to reinstatement with backwages, in view of the fact that 12 years had elapsed since termination, lumpsum compensation be paid in lieu of reinstatement with backwages."

51. As a matter of fact, where the retrenchment is invalid in law, it cannot be said to have determined the relationship of employer employee and the workman will be entitled to reinstatement with continuity of service and backwages of right as per decision (1975) II LLJ 499, Udaipur Mineral Development Syndicate Pvt. Ltd. Vs. M. P. Dave.

52. Ex. M6 is the letter dt. 10-3-92 of the sub Divisional Inspector (Postal) Sankarankoil Sub Division, addressed to the Senior Superintendent of Post Offices, Koilpatti, wherein it is stated that

"enquiries made revealed that the work and conduct of Kumari Seeniammal were quite unsatisfactory when she was working as P/T Sweeper-Cum-Water Carrier at the above S. O. and that in her representation she has claimed that she had been in service for 23 years. But as per records of the APO she was in rolls from 1-1-83 only. She has produced health certificate from 1-1-83 only etc."

"Further in Ex. M6 letter dt. 10-3-92 it is mentioned that 'The SPM Vasudevanallur in his letter dt. 5-12-91 and 12-12-91 addressed to Kum. Seeniammal has listed out some acts of commissions/commissions on her part. Enquiries made with the SPM and other staff revealed that what are stated in the two references addressed to Kum. Seeniammal are true. Prior to calling for explanation in writing the SPM had orally advised the P/T Sweeper to be sincere in her work and also desist from doing some ugly acts in the said references. But she had not made amends. Instead she had challenged the authority of the SPM in the open office. It is thus clear that the SPM Vasudeva nallur has removed from her services only as a last resort."

53. In Ex. M6 dt. 10-3-92 letter of the Sub Divisional Inspector (postal) Sankarankoil sub Division, Sankarankoil it is mentioned that :

"Even during my enquiries with her on 9-3-92 at Vasudevanallur P. O., she was not submissive. The manner in which she narrated things made me to believe that she might have definitely challenged the authority of the SPM. In her Statement dt. 9-3-92 she has admitted that she used to wash her teeth etc. in the morning before going home. When I asked her as to why she did all these things in the office, she replied that the wife of the SPM and other family members were doing so and hence she also did it. This is quite too much on her part. Confidential enquiries made by me revealed that the previous SPM were also not happy with her conduct and work. However, they have spared her without taking any action. The present SPM has tolerated her during the past 11/2 years and he has now taken action against her as a last stop.

In fine, I am to submit that the action of the SPM, Vasudevanallur in terminating her services is quite justified. The only aspect to be examined in this case is whether reasonable opportunity was given to her before terminating her services by the SPM, Vasudevanallur. No prescribed procedure has been outlined in the manuals of the department on the action to be taken against the P/T Contingent Menials. There are no instructions from the Dy. also in this regard.

In the absence of any clear cut instructions, only the principles of natural justice have to be followed with regard to the disciplinary action against the P/T contingent Menials. In this case, SPM Vasudevanallur had two letters to her by registered post listing out her short comings and acts of omissions and Commissions. But she had not made amends and improved her functioning. In the circumstances, the SPM had no other go except to terminate her services.

Hence I am quite convinced that the action of the SPM, Vasudevanallur in terminating the services of Kum. Seeniammal is in order. As a LSG SPM (He has got second promotion) he has got powers to do so. Futher Kum. Seeniammal was not a candidate of Employment Exchange. It is seen that she was appointed without getting list from the Dist. Employment Exchange."

54. In the present case on hand, when Ex. W1 notice dt. 5-12-91 and Ex. W2 notice dt. 12-12-91 were given to the petitioner listing out certain acts of omissions and Commissions committed by the petitioner for which the petitioner has given a reply Ex. W3 denying the imputations. Then an enquiry should have been conducted by affording opportunity to the petitioner to put forward her case in consonance with the principles of natural justice. No enquiry officer was appointed to conduct the domestic enquiry in this regard. However, Ex. W4 termination order dt. 20-12-91 was issued to the petitioner herein, wherein it is inter alia stated that

"It is very difficult to extract work from you. Therefore, you are terminated from the post of Sweeper cum-Water carrier with immediate effect."

Ex. W4 Termination order dt. 20-12-91 was issued by the Sub postmaster, Vasudevanallur, Respondent-2 in the present case. Ex. W3 reply of the petitioner relates to Ex. W1 notice dt. 5-12-91. It is represented on behalf of the respondents, that the petitioner has not given a reply to Ex. W2 notice dt. 12-12-91. Even when the petitioner has not given a reply Ex. W2 notice dt. 12-12-91, it is not going to affect the case of the petitioner, in the considered opinion of thus Tribunal. The reason being for the notice dt. 5-12-91 Ex. W1, the petitioner has given the reply Ex. W3. As a matter of fact, when the petitioner in her reply in Ex. W3 has denied the imputations against her in Ex. W1 notice dt. 5-12-91 then an impartial domestic enquiry ought to have been conducted by the concerned.

Such an enquiry was not conducted in the matter in issue and therefore there is violation of principles of natural justice. No appointment order in respect of the petitioner has been produced and marked in this case. However, the

factum of employment of the petitioner is not disputed. It is the case of the respondent that the petitioner was a part time contingent employee and no prescribed procedure is mentioned in the manuals of the department and no instructions are there in the procedure for taking action against the part time contingent employee and in the absence of clear cut procedure rules of natural justice has to be followed. As stated already, in the case on hand there is violation of principles of natural justice by not conducting an impartial domestic enquiry. Since the order of termination in respect of the petitioner dt. 20-12-91 Ex. W4 is only a Termination simpliciter, this Tribunal is of the considered opinion that the termination of the service of the petitioner by an Order dt. 10-12-91 in Ex. W4 is invalid and inoperative and void also.

55. Normally, the petitioner is entitled to the relief of reinstatement with backwages and all other consequential benefits. However, it is well settled that the cases are to be decided, on the basis of paculiar facts and circumstances and no generalised principle can be deduced and facts will have to be considered in its true perspective. In short, no straight Jacket formula can be evolved. In the present case on hand, as seen from Ex. M12 that the petitioner Kum. Senniammal is serving as Assistant of Vasu-Harijan Colony from 1-7-1982 as per the Appointment order dt. 27-6-82.

56. WW1 Seeniammal in her Cross-examination has deposed that she joined the services in the year 1970 and she was not given the Appointment order. However, in Ex. M6 letter dt- 10-3-92 of the Sub Divisional Inspector (Postal) Sankarankoil, it is mentioned that as per records of the APO the petitioner was in the rolls from 1-1-1983. Whether the petitioner was appointed in the year 1970 or the petitioner was in the rolls from 1-1-83 the Factum of employment of the petitioner as Part Time sweeper is not in dispute in the present case. Though a plea was taken that the second respondent is incompetent to issue the order of termination the same was answered by the Respondents side that the Second respondent was LSG SPM and he has powers to terminate the services of the petitioner at that point of time. Admittedly, the petitioner was not candidate sponsored by the Employment Exchange at the time of her initial appointment as part time Sweeper. In as much as the petitioner's termination order dt. 20-12-91 is termination simpliciter and since the petitioner was terminated from service without complying with the formalities of principles of natural justice and since nearly 15 years had elapsed since termination, a lumpsum compensation of Rs. 25,000 is ordered to be paid to the petitioner by the Respondents in lieu of reinstatement with backwages etc., and in the light of the above detailed discussions and considering the facts and circumstances of the case, it is held that the order of termination dt. 20-12-91 issued by Sub postmaster Vasudevanallur P. O. the second respondent is unjustified and the point is answered accordingly.

In the result an award is passed holding that the action of the second respondent in terminating the petitioner Ms. Seeniammal by virtue of Ex. W4 order dt. 20-12-91 is unjustified and that the respondents are directed to pay a lumpsum compensation of Rs. 25.000 to the petitioner,. No costs.

Dictated to Shorthand Writer and transcribed by her an corrected by me and pronounced in Open Tribunal on this 4th day of January, 2007.

THIRU N. VENUGOPAL, Presiding Officer

I. D. No. 199 of 1994

Witnesses Examined

For Petitioner/Workman

W. W. 1. : TMT. Seeniammal

For Respondent/Management

M. W. 1. : Thiru N. Velusamy

Documents Marked

For Petitioner/Workmen

Ex. W1	5-12-91	:	Notice to Selvi Seeniammal
" W2	12-12-91	:	—do—
" W3	..	:	Reply of Selvi Seeniammal
" W4	20-12-91	:	Order of Termination issued to Seeniammal
" W5	13-1-92	:	Seeniammal appeal to SSP of Kovilpatti
" W6	4-3-92	:	Seeniammal Petition to Legal Committee, Tenkasi.
" W7	6-5-92	:	Reply to Legal Committee
" W8	22-9-92	:	CAT Madras Bench Judgement Order in O. A. No. 1210/92
" W9	20-1-93	:	Petitioner before ALC Madras filed by Selvi Seeniammal
" W10	24-9-93	:	ALC (C) Madras Conciliation report in No. 8 (38)/93-D3

For Respondent/Management

Ex. M1	5-12-91	:	Notice to Ms. Seeniammal
" M2	12-12-91	:	Notice to Ms. Seeniammal
" M3	18-12-91	:	Reply from Seeniammal
" M4	20-12-91	:	Order of Termination issued by sub Postmaster
" M5	13-1-92	:	Seeniammal appeal to SSP, Kovilpatti
" M6	10-3-92	:	Letter from Sub Divisional Inspector Sankarankoil to SSP Kovilpatti.
" M7	7-5-92	:	Letter from SUP, Kovilpatti to the Senior Administrative Assistant Legal Aid Committe.
" M8		:	Pay scale of Mr. Kadarkarai
" M9	22-9-92	:	CAT Madras Bench Judgement order in O. A. No. 1210 of 1992
" M10	30-12-95	:	Industrial Tribunal, Tamil Nadu, Madras Common order.
" M11	25-3-2004	:	Hon'ble High Court order in W. P. No. 13799 of 1997
" M12	14-10-04	:	Letter from Child Growth Planning Officer, Thirunelveli to SSP Kolvipatti.

नई दिल्ली, 5 फरवरी, 2007

का.आ. 636.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारतीय खाद्य निगम के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक, अधिकरण कानपुर के पंचाट (संदर्भ संख्या 104/97, 107/97, 114/97, 116/97, 120/97, 123/97, 124/97, 125/97, 126/97, 127/97, 139/97, 142/97, 144/97, 149/97, 151/97, 152/97, 154/97, 155/97, 159/97, 163/97, 165/97, 166/97, 167/97, और 208/97) को प्रकाशित करती है, जो केन्द्रीय सरकार को 5/2/2007 को प्राप्त हुआ था ।

[सं. एल-22012/221/1996-आई आर (सी-II);
सं. एल-22012/264/1996-आई आर (सी-II);
सं. एल-22012/281/1996-आई आर (सी-II),
सं. एल-22012/283/1996-आई आर (सी-II);
सं. एल-22012/216/1996-आई आर (सी-II),
सं. एल-22012/261/1996-आई आर (सी-II);
सं.एल-22012/280/1996-आई आर (सी-II);
सं. एल-22012/237/1996-आई आर (सी-II);
सं. एल-22012/254/1996-आई आर (सी-II),
सं. एल-22012/289/1996-आई आर (सी-II);
सं. एल-22012/284/1996-आई आर (सी-II),
सं. एल-22012/263/1996-आई आर (सी-II);
सं. एल-22012/235/1996-आई आर (सी-II);
सं. एल-22012/288/1996-आई आर (सी-II);
सं. एल-22012/231/1996-आई आर (सी-II),
सं. एल-22012/232/1996-आई आर (सी-II);
सं. एल-22012/256/1996-आई आर (सी-II),
सं. एल-22012/207/1996-आई आर (सी-II);
सं. एल-22012/258/1996-आई आर (सी-II),
सं. एल-22012/259/1996-आई आर (सी-II);
सं. एल-22012/236/1996-आई आर (सी-II);
सं. एल-22012/245/1996-आई आर (सी-II);
सं. एल-22012/242/1996-आई आर (सी-II);
सं. एल-22012/234/1996-आई आर (सी-II)]

अजय कुमार गौड़, डेस्क अधिकारी

New Delhi, the 5th February, 2007

S.O. 636.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 104/97, 107/97, 114/97, 116/97, 120/97, 123/97, 124/97, 125/97, 126/97, 127/97, 139/97, 142/97, 144/97, 149/97, 151/97, 152/97, 154/97, 155/97, 159/97, 163/97, 165/97, 166/97, 167/97, and 208/97) of the Central Government Industrial Tribunal-cum-Labour Court, Kanpur as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of FCI and their workman, which was received by the Central Government on 5-2-2007.

No. L-22012/221/1996-IR(C-II);
No. L-22012/264/1996-IR(C-II);
No. L-22012/281/1996-IR(C-II);
No. L-22012/283/1996-IR(C-II);
No. L-22012/216/1996-IR(C-II);
No. L-22012/261/1996-IR(C-II);
No. L-22012/280/1996-IR(C-II);
No. L-22012/237/1996-IR(C-II);
No. L-22012/254/1996-IR(C-II);
No. L-22012/289/1996-IR(C-II);
No. L-22012/284/1996-IR(C-II);
No. L-22012/263/1996-IR(C-II);
No. L-22012/235/1996-IR(C-II);
No. L-22012/288/1996-IR(C-II);
No. L-22012/231/1996-IR(C-II);
No. L-22012/232/1996-IR(C-II);
No. L-22012/256/1996-IR(C-II);
No. L-22012/207/1996-IR(C-II);
No. L-22012/258/1996-IR(C-II);
No. L-22012/259/1996-IR(C-II);
No. L-22012/236/1996-IR(C-II);
No. L-22012/245/1996-IR(C-II);
No. L-22012/242/1996-IR(C-II);
No. L-22012/234/1996-IR(C-II).

AJAY KUMAR GAUR, Desk Officer

ANNEXURE

BEFORE SRI SURESH CHANDRA, PRESIDING OFFICER CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, KANPUR

Industrial Dispute Nos.

104/97, 107/97, 114/97, 116/97, 120/97, 123/97, 124/97, 125/97, 126/97, 127/97, 139/97, 142/97, 144/97, 149/97, 151/97, 152/97, 154/97, 155/97, 159/97, 163/97, 165/97, 166/97, 167/97 and 208/97

In the matter of dispute between :

1. Soran Singh 2. Prahalad 3. Raj Bir 4. Ratan Singh 5. Ravindra Singh 6. Pappu 7. Budhdhan 8. Bhikh Chand 9. Kundan Singh 10. Radhey Shyam 11. Nahar Singh 12. Nahar Singh 13. Lakshmi Chand 14. Sughar Singh 15. Smt. Sunil Devi 16. Mohan 17. Awal Babu 18. Debi Singh 19. Jagjiwan 20. Balbir Singh 21. Amar Singh 22. Bhim Sen 23. Giriraj Singh 24. Bishu Ram.

And

The District Manager,
Food Corporation of India,
19/150, Awas Vikas Colony,
Agra Road, Aligarh, U. P.

AWARD

1. The Central Government, Ministry of Labour, New Delhi *vide* Notification Nos. and dated as detailed in the Annexure-1 to this Award has referred the following dispute of the persons named above for adjudication :—

"Whether the claim of (refer the name of person individually) to have worked in Food Supply Depot, Mathura, Food Corporation of India, Aligarh is legal and justified? Whether he has been denied of legitimate claim provided in settlement signed between the management of Food Corporation of India Workers' Union , New Delhi for introduction of Mate System in F.S.D., Mathura? If so, he is entitled to what releif ?"

2. At the outset it may be mentioned that all the above cases have been consolidated *vide* Order dated 21-7-98 of this Tribunal and I.D. No. 104/97 was made as leading case in which evidence of the parties have been recorded. Therefore the Tribunal proposes to dispose off all the above industrial disputes by means of this Common Award.

3. The case competent authority in respect of all workers named above has referred the common schedule of Reference Order as indicated above for adjudication. With the consent of the parties the arguments in all the above reference were heard simultaneously. The authorized representatives for the contesting parties have made common submissions for and in support of their respective claims and counter objections.

4. The case in short as set up by the worker in his statement of claim is that he had been working as a Loader under the opposite party establishment since 1987 and in this way the worker had completed more than 240 days of continuous service. It is further alleged by the worker that prior to termination of his services during the period 1987 to 1993 he had completed more than 2000 days of continuous service. The opposite party has terminated the services of the workman w.e.f. 1993. The opposite party had neither paid any notice pay, notice or retrenchment compensation at the time of terminating his services. The opposite party after the termination of the services of the worker had inducted several fresh hands in the service of opposite party, the names of such persons have been mentioned in para 6 of the claim statment. it has also been pleaded by the worker that he made repeated representations for his employment before the opposite party but they were kept unreplied. The worker has also pleaded breach of the provisions of Section 25-H of I.D. Act, 1947. Worker has also pleaded that he worked under the direct control and supervision of the opposite party. Worker has further pleaded that the opposite party in an arbitrary manner and on account of animosity had terminated the services of the worker which also attracts the provisions of Section 2(ra) of I.D. Act, 1947. It has also been pleaded that the worker was working on the work which was of permanent nature and the same work is still continuing under the opposite party and that work is still being taken by the opposite party from fresh hands which is against the principles of natural justice. On the basis of above pleadings it has been prayed by the worker that the termination of his services be declared illegal and unjustified and he be ordered to be reinstated in the services of the opposite party with full back wages and with all consequential benefits.

5. The opposite party has contested the claim of the worker and filed its written statement, *interalia*, alleging therein that the worker was never appointed by the opposite party as alleged by the worker. It has also been denied that the worker had ever worked at the post of Loader under the opposite party. Worker has not specified the date of appointment and the place where he was working and the pay which he was drawing from the opposite party. Opposite party has also denied continuous working of the worker and it has also been denied by the opposite party that the worker had ever worked for more than 2000 days during the period 1987 to 1993. It is also alleged that the opposite party has neither appointed the worker at any point of time nor had terminated the services of the worker. Opposite party has further pleaded that when the worker was never appointed by them question of considering his representations as alleged does not arise. Regarding the appointment of other workers it has been pleaded by the opposite party that the management has every right to engage any person at any point of time keeping in view the rules and regulations and without prejudicing or violation of rights of any other workers with the opposite party. It has also been denied by the opposite party that they ever violated any of the provisions of I.D. Act, 1947. It is false to allege that the opposite party acted in an arbitrary manner and against rules of natural justice. The demand of the claimant is illegal and without any authority. It has also been denied by the opposite party that the worker had ever performed the work of permanent nature. There was no system at Mathura in the establshment of the opposite party to engage directly any person during the period 1987 to 1993. Since the worker was never in the employment of the opposite party question of issuing notice, notice pay or payment of retrenchment compensation in the facts and circumstances of the case does not arise at all. Any representation of the worker was uncalled for and the worker was not entitled for any compensation. Opposite party has also denied the relationship of Master and Servant between the opposite party and the so called worker. Since the worker had never been appointed by the opposite party the opposite party had no hand in action taken by the employer of the worker. Worker is not entitled to any benefits of permanent employment or any other facilities as claimed.

6. By way of additional plea it has been pleaded by the opposite party that the Senior Regional Manager has been shown to have terminated the services of the worker but Senior Regional Manager has not been made a party to the dispute.

7. It has also been pleaded by the opposite party that District Manager, F.C.I., Aligarh, has not been impleaded as party in the statement of claim, therefore, the claim of the worker is bad for non-joinder of necessary party and the claim of the worker is liable to be rejected on this ground. In the end it has been pleaded that the claim of the worker be rejected being devoid of any merit.

8. Worker has also filed rejoinder in which nothing new has been pleaded except reiteration of the facts already alleged by him in statement of claim.

9. Contesting parties beside adducing documentary evidence have also adduced oral evidence in support of the respective claims and counter claims.

10. Tribunal has heard the arguments of the parties at length and have carefully gone through the records.

11. It is to be noted that the statement of claim of the worker is not in confirmity with the terms of reference order

and the same is entirely different. Whereas reference order is to the effect that whether the calim of the worker to have worked in Food Supply Depot at Mathura of Food Corporation of India, Aligarh is legal and justified and whether he has been denied of legitimate claim provided in settlement signed between the management and Food Corporation of India Workers' Union, New Delhi for introduction of mate system in F.S.D., Mathura. If so, he is entitled to what relief ? But in the claim statement worker has claimed his reinstatement with full back wages and all consequential benefits on the ground of breach of the provisions of I.D. Act, 1947, which is not at all correct. It is settled position of law in industrial jurisprudence that a Labour Court/Industrial Tribunal and or National Tribunal cannot travel beyond the terms of reference order. The reference order do not reflects the termination of the services of the worker therefore the worker cannot be granted the relief of reinstatement in the instant case. Moreover as already pointed out that the statement of claim of the worker is not in consonance with the terms of reference order, the Tribunal do not consider it expedient to examine the points raised by the worker regarding breach of various provisions of the I.D. Act, 1947.

12. Further a bare perusal of the reference order would go to indicate that no date has been mentioned therein and in case on appreciation of evidence on record the Tribunal is of the opinion that the action of the opposite party management is neither legal nor justified. Now question which arised for consideration is as to from what date the worker be given relief by the Tribunal. From this point of view also the worker cannot be granted any relief as claimed by him as the reference order itself has become redundant.

13. The opposite party has denied any relationship of employer and employee between the management of F.C.I. and the workman. On this point the worker has not adduced any evidence. Heavy burden was on the worker to have adduced evidence before the Tribunal to establish the relationship of employer and employee between him and the opposite party. Since the worker has failed to adduce any evidence on this point, the Tribunal feels no hesitation in holding that there exists no relationship of master and servant between the management of Food Corporation of India and the worker.

14. In view of discussions made above, it is held that there exists no relationship of master and servant between the management of F.C.I. and the worker. Having concluded that there is no relationship of master and servant between the contesting parties no relief can be granted to the worker.

15. Accordingly reference is answered against the worker and in favour of the management.

SURESH CHANDRA, Presiding Officer

ANNEXURE—1

S. No.	Notification No.	Dated	I.D. No.
1	L-22012/221/96 IR (C-II)	7-7-97	104/97
2	L-22012/264/96 IR (C-II)	20-08-97	166/97
3	L-22012/281/96 IR (C-II)	24-07-97	127/97
4	L-22012/283/96 IR (C-II)	19-08-97	139/97
5	L-22012/216/96 IR (C-II)	27-06-97	107/97
6	L-22012/261/96 IR (C-II)	24-07-97	125/97
7	L-22012/280/96 IR (C-II)	24-07-97	126/97
8	L-22012/237/96 IR (C-II)	24-07-97	114/97
9	L-22012/254/96 IR (C-II)	19-08-97	155/97
10	L-22012/289/96 IR (C-II)	20-08-97	163/97
11	L-22012/284/96 IR (C-II)	19-08-97	151/97
12	L-22012/263/96 IR (C-II)	10-09-97	208/97
13	L-22012/235/96 IR (C-II)	19-08-97	149/97
14	L-22012/288/96 IR (C-II)	20-08-97	165/97
15	L-22012/231/96 IR (C-II)	19-08-97	144/97
16	L-22012/232/96 IR (C-II)	24-07-97	116/97
17	L-22012/256/96 IR (C-II)	20-08-97	169/97
18	L-22012/207/96 IR (C-II)	24-07-97	124/97
19	L-22012/258/96 IR (C-II)	20-08-97	167/97
20	L-22012/259/96 IR (C-II)	24-07-97	123/97
21	L-22012/236/96 IR (C-II)	19-08-97	142/97
22	L-22012/245/96 IR (C-II)	19-08-97	152/97
23	L-22012/242/96 IR (C-II)	24-07-97	120/97
24	L-22012/234/96 IR (C-II)	19-08-97	154/97

नई दिल्ली, 6 फरवरी, 2007

का.आ. 637.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार विशाखापटनम पोर्ट ट्रस्ट के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय हैदराबाद के पंचाट (संदर्भ संख्या 115/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 5-2-2007 को प्राप्त हुआ था।

[सं. एल-34011/1/2003-आई आर (बी-II)]
राजिन्द्र कुमार, डेस्क अधिकारी

New Delhi, the 6th February, 2007

S.O. 637.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 115/2004) of the Central Government Industrial Tribunal-cum-Labour Court Hyderabad as shown in the Annexure in the Industrial dispute between the management of the Visakhapatnam Port Trust and their workmen, received by the Central Government on 05-02-2007.

[No. L-34011/1/2003-IR (B-II)]
RAJINDER KUMAR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AT HYDERABAD

PRESENT:

Shri T. Ramchandra Reddy, Presiding Officer

Dated the 18th day of January, 2007

INDUSTRIAL DISPUTE No. 115/2004

BETWEEN

The General Secretary,
Port & Dock Employees Association,
Rama Padma Nilayam 14-25-32
A. Bazar, Maharanipeta,
Visakhapatnam-530 002.

AND

The Chairman,
Visakhapatnam Port Trust,
Port Area,
Visakhapatnam-530 035. .....Respondent

APPEARANCES:

For the Petitioner : Sri S. Rama Rao, Advocate

For the Respondent : M/s. D. V. Subba Rao & D. V. S. S. Somayajulu, Advocates

AWARD

This is a reference made by the Government of India, Ministry of Labour and Employment by its order No. L-34011/1/2003-IR(B.II) dated 10-9-2003 in exercise of powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 with the following schedule :

SCHEDULE

"Whether the action of the management of Visakhapatnam Port Trust by infliction of punishment of imposition of penalty of withholding of annual increment for two years without cumulative effect in respect of Sh. A. Yellaji Rao, Charge Hand, Mechanical Department a member of workman of Port & Dock Employees' Association, Visakhapatnam is legal and justified ? If not, to what relief is the union entitled ?"

2. The General Secretary for Port & Dock Employees Association, Visakhapatnam has submitted his claim application on behalf of the workman Sri A. Yellaji Rao, stating that the workman has been working as charge hand on adhoc basis in the B.G. Locos Section in Mechanical Department of the Respondent Management. He was issued with a charge sheet for imposing minor penalty under Regulation 12 of the Visakhapatnam Port Employees (Classification, Control & Appeal) Regulations 1968, alleging that the workman was posted for the re-railing operations of wagons on 29-7-2002 in the third shift. During his shift, Hydraulic jack sustained severe damage while doing re-railing operations of wagons derailed at N.A.D. point. it was reported by the charge hand in general shift on 30-7-2002 that he had noticed the damage during the balance work of re-railing operation of wagons and observed that the piston and outer surface of jack were dented and bulged considerably and the oil leaked heavily from the jack resulting the break down of the jack. It is further alleged that the workman being charge hand of the shift required to ensure operations of the equipment with all precautions and to avoid any untoward incident but the equipment was damaged during his shift and is required to report the same immediately to Section Officer and to the next shift supervisor. It is further alleged that above acts of the workman amounts to gross misconduct and negligence and carelessness while performing his duties. It is further submitted that the workman has submitted his explanation on 7-9-2002 denying the charges. He was supposed to be relieved by 6.00 hrs on 30-7-2002. Since his reliever did not come to duty upto 7.00 hrs, he worked upto 7.00 hrs and went to the shed duly handing over the work to the shift supervisor and further submitted that there was no damage nor any accident during his shift and requested the authorities to hold an enquiry to elicit the truth.

3. It is further submitted that without considering his explanation the Disciplinary Authority has imposed punishment of imposing penalty of withholding the annual increment next due to the workman for a period of two years without cumulative effect on his future increments. The workman has preferred his appeal to the Deputy Chairman, Visakhapatnam Port Trust the Appellate Authority but the same was rejected in violation of the principles of natural justice. It is further submitted that workman is an executive committee member of Port & Dock Employees Association. As such he was victimized by imposing the punishment.

4. The Respondent filed the counter and denied the averments made in the claim statement and pleaded that on a report from AXE(M), B.G. Locos, on 29-7-2002 stating that during the third shift Hydraulic jack sustained severe damage while executing re-railing operations and the same was noticed and reported by Sri J. Ram Mohan Rao, another charge hand on 30-7-2002, a memo was issued on 31-7-2002 calling the explanation of the workman stating that he failed to take necessary precautions in the re-railing operations in the third shift of 29-7-2002 and did not inform about the damage caused to the jack. It is admitted that the workman has submitted his explanation denying the averments made in the charge sheet. Further, the section officer recommended for suitable action against the workman stating that the explanation is not satisfactory. It is further submitted that the Disciplinary Authority has considered the explanation of the workman and carefully examining the material evidence available on record and satisfied that the workman lacked dedication towards his work due to which damage was caused to the equipment and imposed punishment of minor penalty of stoppage of increment due for a period of 2 years without cumulative effect. It is further submitted that the appeal preferred by the workman was rejected confirming the orders of the Disciplinary Authority. It is further contended that the Foreman who has reported to duty in the morning on 30-7-2002 has not only submitted a written report dated 2-8-2002 in this regard but he also shows the damage caused to the equipment to the AXE section in the morning of the first shift on 30-7-2002. The Petitioner workman acted in most irresponsible manner, and to cover up his lapses he pretended ignorance by raising a demand for enquiry.

5. The Petitioner, General Secretary filed his affidavit in support of the claim statement. As against this evidence the Respondent filed the affidavit of Sri K. Nagabhushana

Rao and got marked the following documents, Ex. M1 to M7 in as follows: Ex.M1 is the copy of report from AXE(M) B.G. Locos dtd. 31-7-2002. Ex.M2 is the Copy of charge by J. Rama Mohan Rao filed against the Petitioner dtd. 2-8-2002. Ex. M3 is the copy of explanation by workman dtd. 3-8-2002. Ex.M4 is the copy of chargesheet dtd. 29-8-2002. Ex. M5 is the copy of explanation to chargesheet dtd. 7-9-2002. Ex. M6 is the copy of appeal to Appellate Authority dtd.20-11-2002. Ex.M7 is the copy of VPE's (CC & A) Regulations 1968.

6. It is not in dispute that the Respondent Management has imposed minor penalty under Sec.3(1) of Visakhapatnam Port Employees (Classification, Control and Conduct) Regulations, 1968 by issuing a charge sheet and considering the explanation and material on record for imposing minor penalty. The Petitioner workman was on duty in the third shift on 29-7-2002 from 22.00 hours to 6.00 hours on the next day. On 30-7-2002 Sri J. Ram Mohan Rao charge hand (general shift) after coming to know that there was de-railment of N.A.D. point, he came to the spot at 7.15 hours and found Sri P.V. Ramana, Fitter-II, B. V. Nageswara Rao, Fitter-III and Sri K. Madhusudan Rao, Khalasi have informed him that the 130 ton short Body Jack No.II was not working. Immediately he examined jack and found that the Jack was damaged in the previous shift and he informed the same by giving a complaint to Assistant Executive Engineer as in Ex. M2. Assistant Executive Engineer has issued memo to the workman as in Ex. M1 and that the workman has given his explanation as in Ex. M3 dated 3-8-2002. The Assistant Executive Engineer who found the explanation as not satisfactory recommended for taking necessary action on the same day. The Disciplinary Authority has issued a charge sheet dated 29- 8-2002 for the alleged misconduct as in Ex. M4. The workman has submitted his explanation as in Ex. M5. The Disciplinary Authority on considering the entire material on record has imposed the minor penalty as stated above.

7. The Appellate Authority also rejected the appeal of the workman observing that after careful consideration of the facts of the case and perusal of the relevant records there are no merits and confirmed the punishment.

8. The Learned Counsel for the Petitioner contended that when the Petitioner has denied the allegations made in the charge sheet. The Disciplinary Authority without conducting an enquiry into the facts has straightaway imposed the punishment violating the principles of natural justice.

9. On the other hand, the Learned Counsel for the Respondent contended that the Disciplinary Authority has a power to impose minor penalty only on the basis of the material on record and the explanation submitted by the Petitioner workman and further pointed out that the punishment imposed by Disciplinary Authority was also confirmed by the Appellate Authority by perusing the relevant records.

10. It should be noted that Sir J. Ram Mohan Rao, charge hand in the general shift on 30-7-2002 has examined the damage and found that the damage was caused in the previous shift and accordingly reported to the Assistant Executive Engineer when he inspected the Jack, Fitter, Sri P.V. Raman, Sri B.V. Nageswara Rao and Sri K. Madhusudan Rao, Khalasi were also present who informed him about the damage. The inspection has taken place in the morning at 7.15 hours. The plea of the workman that he worked upto 7 hours on 30-7-2002, since his reliever did not come and went to the shed, shows that the damage has taken place during his shift only. When, Sri J. Ram Mohan Rao has examined the damage in the morning at 7.15 hours the damaged must have been taken place during the duty period of the workman. The Disciplinary Authority on considering the complaint of Sri J. Ram Mohan Rao and the explanation given by the Petitioner and perusing the material on record has rightly imposed the punishment. The scope for judicial review by this tribunal is limited and the action taken by the Disciplinary Authority on considering the material on record can not be interfered by this tribunal, since, the tribunal is not an Appellate Authority.

11. On considering the material on record, I hold that the action of the Respondent Management by inflicting the minor punishment of imposition of penalty withholding the annual increment for two years without cumulative effect is legal and justified.

Award passed accordingly. Transmit. Dictated to Smt. P. Phani Gowri, Personal Assistant transcribed by her and corrected by me on this the 18th day of January, 2007.

T. RAMACHANDRA REDDY, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner :	Witnesses examined for the Respondent:
WW 1: Sri Nemani Suryanarayana Rao	MWI :Sri K. Nagabhushana Rao

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

Ex. M1 : Copy of report from AXE (M) BG Locos dtd. 31-7-2002

Ex. M2 : Copy of charge by J. Ram Mohan Rao filed against the Petitioner dtd. 2-8-2002.

Ex. M3 : Copy of explanation by workman dtd. 3-8-2002.

Ex. M4 : Copy of chargesheet dtd. 29-8-2002.

Ex. M5 : Copy of explanation to chargesheet dtd.7-9-2002.

Ex. M6 : Copy of appeal to Appellate Authority dtd. 20-11-2002.

Ex. M7: Copy of VPE's (CC & A) Regulations 1968.

नई दिल्ली, 6 फरवरी, 2007

का.आ. 638.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार कॉरपोरेशन बैंक

के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय बैंगलोर के पंचाट (संदर्भ संख्या 3/2003) को प्रकाशित करती है, जो केन्द्रीय सरकार को 5-2-2007 को प्राप्त हुआ था।

[सं. एल-12012/162/2002-आई आर (बी-II)]
राजिन्द्र कुमार, डेस्क अधिकारी

New Delhi, the 6th February, 2007

S.O. 638.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 3/2003) of the Central Government Industrial Tribunal-cum-Labour Court Bangalore as shown in the Annexure in the Industrial dispute between the management of Corporation Bank and their workmen, received by the Central Government on 5-2-2007.

[No. L-12012/162/2002-IR (B-II)]
RAJINDER KUMAR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, BANGALORE

Dated : 24th January, 2007

PRESENT:
Shri A. R. SIDDIQUI, Presiding Officer

C.R. No. 03/03

I Party	**II Party**
Shri S. Shantha Kumar Pandit, (Since deceased rep. by his L Rs.), S/o Shri A. Raghava Vaidya, Room No. 8, Nagaraja Nagar, Paudubidri-574111, Karnataka State	The Management, Corporation Bank, Head Office, Mangalore Karnataka State

AWARD

1. The Central Government by exercising the powers conferred by clause (d) of sub-section 2A of the Section 10 of the Industrial Disputes Act, 1947 has referred this dispute *vide* order. No. L-12012/162/2002-IR (B-II) dated 27th January 2003 for adjudication on the following schedule :

SCHEDULE

"Whether the action of the management of Corporation Bank in terminating the agency of Shri S. Shantha Kumar Pandit, Janatha Deposit Collector at their Nandikur Branch is legal and justified? If not, what relief the said workman is entitled to?"

2. The case of the first party workman (since deceased L Rs are brought on record) as made out in the Claim Statement in brief is that he was working as a Janatha Deposit Collector at Nandikur Branch of the management bank being appointed *vide* order dated 12-12-1977 and was discharging his duties sincerely and diligently. He was visiting the customers to collect deposits at their door step not only at Nandikur area but also visiting other nearby places and after collecting the amount from the customers he used to deposit the same with the management bank by receiving monthly remuneration based on the deposit amounts collected by him. He was performing his duties as per the directions and supervision of the officials of the management bank. However, for no good reasons, the management, abruptly, terminated his services vide termination order dated 25-3-1999 on the allegation of misappropriation of Rs.3115.30. There was no show cause notice issued to him nor any opportunity was afforded to him to prove his innocence much less conducting any Domestic Enquiry. Therefore, the order of termination is illegal and as against the principles of natural justice and in violation of provisions of ID Act, and hence liable to be set aside at the hands of this tribunal.

3. The management filed its Counter Statement and in the first instance contended that the case on hand suffered from inordinate delay as first party was terminated by order dated 25-3-1999 and whereas, he raised the dispute somewhere in the year 2003. The management contended that the first party was appointed as a Janatha Deposit Collector and was receiving commission over the deposits collected by him from the customers of the bank and that there was no relationship of employee and employer between the first party and the management. The management further contended that the first party misappropriated a sum of Rs.1616 collected by him from various customers on 06-02-1990 having failed to remit the same with the bank. Thereupon, the first party was stopped from collecting the deposits from the JD Accounts holders and after re-consideration of the matter and on the basis of the letter dated 29-8-1990 issued by the branch a lenient view was taken against the first party having regard to his past record and thereupon he was allowed to resume collection of Janatha deposits on the assurance given by him that he will not repeat such lapses in future. Accordingly, the first party submitted a letter dated 31-8-1990 giving the undertaking to the above effect. However, again in the month of March, 1997 the bank received oral complaints from the Janatha Depositors against the first party about the differences in their accounts. On enquiry the first party agreed that there had been shortfall in the remittances made in cash towards the collection he made on behalf of the bank and admitted that difference amount was diverted for meeting his personal commitment. Thereupon, the matter was referred to the then Regional Office (now zonal office) Udupi and in terms of their letter dated 31-3-1997, the first party was prevented from collecting the deposits from the customers. However, he after having surrendered the cards to the bank on 31-3-1997, collected. amount from the parties. The Nandikuru Branch in terms of their letter dated 20-5-1998 and 16-6-1998 further followed up in the matter in the regional office and the Regional Office in terms of their letter dated 23-7-1998 advised the bank to submit their specific

recommendation for continuation/termination of the agency of the first party. Ultimately, the branch terminated the agency of the first party in terms of the letter dated 25-3-1999 by giving one month's notice. He was served with the termination order on 26-3-1999. He made certain representations dated 20-4-1999 & 25-8-1999 and the branch replied to those letters *vide* letter dated 8-9-1999. Therefore, the management contended that the order terminating the services of the first party was just and legal not to be interfered at the hands of this tribunal. The management also contended that the agency of the first party has been terminated as per the terms of the agency agreement and therefore, question of conducting any enquiry or violation of principles of natural justice does not arise. It also contended that provisions of Section 25F and 25H of the ID Act did not apply to the facts of the case as the case of the first party was governed under Section 2(oo)(bb)of the 10 Act. The management also took support of the judgement of their Lordship of Supreme Court reported in 2001 SCC 36 and 2001 (2) SC 119 in support of its contentions and requested this tribunal to reject the reference.

4. During the course of trial, the management examined its Inspecting Officer and in his deposition got marked 33 documents at Ex. M1 to M 33. His statement in examination chief relevant for the purpose is that the job of the first party was to collect the money from their customers at their door steps and to deposit the same in the bank by preparing two counterfoils one to be given to the customer and the other to be retained by him as receipt for payment. He will be paid commission on the total amount collected by him during the period of one month without any regular salary; that there was no relationship of employee and employer between the first party and the management but of an Agent and Principal. Among other documents he referred to the application of the first party seeking the post of Pigmy Agent as per Ex. M1 and his appointment order at Ex. M2. Then he referred to the agreement between the first party and the management at Ex. M3. He spoke to the fact that first party was working as a Pigmy Agent. Then he referred to the letter of the branch manager with regard to the complaint against the first party for not depositing a sum of Rs.1616 with the bank which he received from the customer on 6-2-1990. He then referred to the correspondence between the branch manager and the Regional office with reference to the above said non remittance of amount collected by him with the bank. He also referred to the documents making recommendations to continue the first party in service of agency taking lenient view and the letter at Ex. M17 where under the first party deposited a sum of Rs. 3115.30 with the bank to make good the loss of the bank. Then he referred to his report at Ex. M20 and the letter of AGM at Ex. M21 and the termination order against the first party at Ex. M22. In his cross examination it was elicited that the first party did not misappropriate a sum of Rs.1616 in the year 1990 but failed to deposit the said amount after having collected from the customer and he deposited the same later on. He admitted that deposit cards were taken back from the first party and he was asked not to collect the amount from the customers during the above said period and that thereafter his services were continued keeping in view his unblemished past records. It was elicited that he received oral complaints against the first party from the customers in the year 1997 but was unable to give the names of the Account holders. He admitted that there was no memo issued to the first party in this regard and no enquiry was held. He admitted that w.e.f. 31-03-1997 the deposit cards from the first party were taken back and he was not allowed to work as a Deposit Collector from 31.3.1997 to 25-3-1999 on which date he was terminated.

5. Learned counsel for the management, Shri CH vehemently, argued that first of all there has been no relationship of employee and employer between the first party and the management and therefore, there was no illegality committed by the management in terminating his services in terms of agency agreement between him and the management for having violated the terms of the said agreement. Learned counsel then referred to the very agency agreement between the first party and the management marked at Ex. M3. He contended that as per the complaint at Ex. M4 made by the customer, the first party failed to deposit a sum of Rs.1616 with the bank after having collected from the customers and he was stopped from collecting the deposits, however, after a lengthy correspondence between the branch manager and the Regional Office and the first party having furnished fresh surety, he was allowed to resume the duty of Deposit Collector. Thereupon, again the first party misappropriated a sum of Rs.3115.30 which he collected from the various customers and ultimately his services were terminated in terms of agency agreement. He submitted that since the first party was not a regular staff of the bank, there was no necessity to conduct any Domestic Enquiry or to comply with the provisions of Section 25F read with section 2(oo) of the ID Act.

6. Whereas, learned counsel Smt. Latha representing the first party in her written as well as oral arguments contended that in the light of the aforesaid Supreme Court Judgement the first party working as a pigmy agent has been held as a "workman" as defined under Section 2(s) of the ID Act, further holding that there has been a relationship of employee and employer between certain Agent and the Management Bank. It has been further held that the commission paid to the Janatha Deposit Collectors comes under the definition of the wages and therefore, it is clear that provisions of ID Act are applicable to the present case. She also contended that the order terminating the services of the first party is based upon the allegations of misappropriation of the funds belonging to the Management amounting to gross misconduct and therefore, his services could not have been dispensed with without the compliance of provisions of Section 25F read with Section 2(00) of the ID Act. She submitted that since the first party workman is no more, his legal heirs may be

granted back wages till the date of his death with other consequential benefits. In support of her case she referred to the following decisions:

(a) 2004 LLR 396

(b) 1992 LLR Born. High Court.

(c) 2001 SCC (L&S) 504

(d) 1990 LLR Madras HC 164

7. After having gone through the records, I find substance in the arguments advanced for the first party. The facts undisputed in this case are that the first party was working as a Janatha Deposit Collector at Nandikur Branch of the management Bank being appointed as such vide order dated 12-12-1977 marked at Ex. M2. It is not in dispute that on account of certain complaints against the first party in the year 1990 that he failed to deposit a sum of Rs.1616 with the bank after having collected the same from the customers. JD Cards were withdrawn from him asking him not to collect the amount from the depositors and it is after reconsideration of the matter the management once again allowed the first party to resume his duties as a Deposit Collector. It is again not in dispute that in the year 1997, there were certain oral complaints against the first party for having misappropriated a sum of Rs. 3115.30 in the year 1997 and once again his JD Cards were withdrawn and he was stopped from collecting the deposits. It is in the statement of MW1 that w.e.f. 31-3-1997 till the impugned punishment order was passed, the first party was not allowed to collect the deposits from the customers concerned and ultimately his services were terminated w.e.f. 31-3-1997. Now therefore, in the light of the above, the only question to be considered would be whether the order terminating the services of the first party was legal and justified under the facts and circumstances of the present case.

8. In a similar case based on similar set of facts and law that arose before the Industrial Tribunal, Hyderabad , an award dated 22-12-1988 was passed by the said Tribunal holding that he pigmy agents/Deposit Collectors working in the bank were held to be a 'workmen' as defined under Section 2(s) of the ID Act. Operative portion of the award runs as under:-

> "All those Deposit Collectors and Agents who are below the age of 45 years on 3-10-1980 (the date of the first reference of this Industrial dispute) shall be considered for regular absorption for the post of Clerks and cashiers if they are matriculates and above including qualified graduates and post graduates. They may be taken to Banks service as regular employees if they pass the qualifying examinations conducted by the banks. Those who are absorbed shall be treated on par with regular clerical employees of the bank. Those who are qualified with 8th Class and below Matriculations shall be considered for absorption as Sub-Staff by conducting qualifications examination. As regards the Deposit Collectors and Agents who are above 45 years of age on the date 3-10-1980 and also those who are unwilling to be absorbed in regular Banks service, they shall be paid the full back wage of Rs. 750 per month linked with minimum deposit of Rs.7,500 per month and they should be paid incentive remuneration at 2% for collection of over and above Rs.7500 per month and they would also pay uniform conveyance of Rs. 50 per month for deposit of less than Rs.10,000 and Rs. 100 per month for deposit of more than Rs. 10,000 up to or above Rs.30,000 per month they should be paid Gratuity of 15 days commission for each year of service rendered".

9. When the matter was taken up before the High Court of Judicature of Andhra Pradesh, at Hyderabad by the aggrieved management of the bank, their Lordship of High Court modified the above said award except the directions given by the tribunal for absorption of Deposit Collectors below the age of 45 years as on 3-10-1980. The management of Indian Banks Association thereafter took up the matter before their Lordship of Supreme Court in Civil Appeal No. 3355 of 1998 reported in 2001 SCC (L&S)504 and their Lordship of Supreme Court on page 8 of the Judgement disposed of the above said Civil Appeal with the following observations :

> "We have considered the rival submissions. In our view, Mr. Sharma was right when he submitted that on the basis of evidence before it the Tribunal has given findings of fact that the Deposit Collectors were workmen within the meaning of Section 2(s) of the Industrial Disputes Act. On the evidence on record it could not be said that this finding was unsustainable. Having been shown the relevant evidence we are also of the opinion that the Tribunal correctly arrived at a conclusion that these Deposit Collectors were workmen. Further, as seen from Section 2(rr) of the Industrial Disputes Act, the commission received by Deposit Collectors is nothing else but wage, which is dependent on the productivity. This commission is paid for promoting the business of the various banks.
>
> We also cannot accept the submission that the banks have no control over the Deposit Collectors. Undoubtedly, the Deposit collectors are free to regulate their own hours of work, but that is because of the nature of the work itself. It would be impossible to fix working hours for such Deposit Collectors because they have to go to various depositors.
>
> This would have to be done at the convenience of the depositors and at such times as required by the depositors. If this is so, then no time can be fixed for such work. However, there is control in as much as the Deposit Collectors have to being

the collections and deposit the same in the banks by the very next day. They have to then fill in various forms, accounts, registers and passbooks. They also have to do such other clerical work as the bank may direct. They are, therefore, accountable to the bank and under the control of the bank.

We also see no force in the contention that Section 10 of the Banking Regulation Act prevents employment of persons on commission basis. The proviso to Section 10 makes it clear that commission can be paid to persons who are not in regular employment. Undoubtedly the Deposit Collectors are not regular employees of the bank. But they nevertheless are the workers within the meaning of the term as defined in the industrial dispute act. There is clearly a relationship of master and servant between the Deposits Collectors and the concerned bank. Mr. Nageshwar Rao is right in his submission that the concession was not binding on his clients. However, what has been conceded has been correctly conceded. No question arose of directing absorption of the Deposit Collectors as regular workmen. No such demand had been made and, therefore, there could have been no such direction. Such directions were beyond the reference. Even otherwise, the question of absorption would be fully covered by an authority of this court in the case of Union of India and others *Vs.* K.V. Baby and Anr. reported in (1999) 1 LLJ 1290. In this case it has been held that persons who are engaged on the basis of individual contracts to work on commission basis cannot be equated with regular employees doing similar work. It has been held that the mode of selection and qualification are not comparable with those of the employees, even though the employees may be doing similar works. In the present case, not only are the modes of selection and qualification not comparable, but even the work is not comparable. The work which the Deposit Collectors do is completely different from the work which the regular employees do. There was thus no question of absorption and there was also no question of the Deposit Collectors being paid the same pay scales, allowances and other service conditions of the regular employees of the banks.

We also see no substance in the contention that these Schemes are unremunerative. The Banks have introduced these schemes because they want to encourage the common man to make small and regular deposits. As a result of such Schemes, the number of depositors have come much larger. We have no doubt that such schemes are continued because the banks find them remunerative. The Banks have large collections through such schemes."

10. As seen above, the main contention of the management in juustifying the above said termination order is that there had been no relationship of employee and employer between the first party and the management and that the relationship between the party was of the agent and the principal and therefore, when the first party violated the terms of the agency agreement in committing the irregularities with the amount he collected from the customers by not depositing the same somewhere in the year 1990 and then misappropriating the funds he collected from the customers in the year 1997 the management was justified in terminating his services without conducting any Domestic Enquiry or giving him any opportunity of hearing. It is also the case of the management that provisions of ID Act are not applicable even keeping in view the observations and the principle laid down by their Lordship of Supreme Court in the aforesaid Syndicate Bank case holding the Pigmy Agent as "Workman" under section 2 (s) of the ID Act. It is the case of the management that the status of the 'workman' as per the aforesaid judgement is for limited purpose and he not being a regular staff cannot be treated on par with the other employees of the bank so as to warrant any DE incasse of any misconduct committed by him or compliance of the provisions of ID Act in the light of terms of the agency agreement. Now, therefore, the most important and relevant fact to be considered in the first instance by this tribunal would be as to whether the first party comes under the definition of 'Workman" as defined under Section 2 (s) of the I.D. Act.

11. As seen above, under similar set of facts and point of law arising with regard to the question as to "whether the Pigmy Agent/Deposit Collectors come under the definition of workman or not". Their Lordship of Supreme Court in no uncertain terms have made it abundantly clear that there is a clear relation ship of master and servant between the Deposit Collectors and the concerned Bank. Their Lordship as noted above, have further held that Deposit Collectors are the 'workman' within the meaning of Section 2 (s) of the ID Act. The various contentions now taken by the management by way of their counter statement before this tribunal have been considered in the aforesaid decision of their Lordship of Supreme Court viz a viz the contentions taken by the Deposit Collectors and their Lordship have ultimately, come to the conclusion that the deposit collectors are the 'workman' as defined under Section 2 (s) of the ID Act and there has been relationship of employee and employer between the deposit collectors and the management bank. In the instant case there has been no dispute with regard to the fact that the first party had been working with the management Bank as a Deposit Collector right from the year 1977 uptill the year 1999 and his services have been terminated w.e.f. 25-3-1999. Now, therefore, a simple question which arises for our consideration in the facts and circumstances of the present case are whether the management was justified in terminating the services of the first party workman by issuing the aforesaid termination order marked before this tribunal at Ex. M22. It was rightly argued for the first party

that when the first party working as a Deposit Collector has been held to be a 'workman' as defined under the provisions of ID Act, then it goes without saying that he will be entitled to the reliefs and benefits arising out of the provisions of the ID Act. In this case undisputedly, there is no notice pay or compensation paid or offered to the first party before the above said termination order was issued. There is again no denial of the fact that the management did not comply with the conditions and requirements mandated under Section 25 F of the ID Act while passing the above said termination order. The first party working under the Nationalised Bank is also entitled to notice pay before termination even as per the terms of Shastry Award. Therefore, the termination order first of all cannot be sustained in the eye of law for the reason that termination amounts to retrenchment as defined under Section 2 (oo) of the ID Act and since there is no compliance of Section 25 F of the ID Act, it becomes illegal and *void abinitio*. Moreover, as argued for the first party the termination order in question is based upon the allegations of misappropriation and not a termination simplicitor. Therefore, when the termination was based upon the alleged misconduct of misappropriation of the funds belonging to the management, then the only proper recourse available to the management was to give an opportunity of hearing to the first party by issuing of show cause memo or charge sheet followed by a regular Domestic Enquiry. In this case in the very words of the management witness that no memo was issued nor any enquiry was conducted against the first party before terminating his services. Therefore, the order of termination is also liable to be set aside as illegal and invalid for the reason that it was not preceded by any DE necessary to be conducted for the proof of misconduct committed by the first party.

12. When the order of termination is held to be illegal and void abinitio, then in the normal course, the first party would have got the relief of reinstatement. However, in this case the first party has been reported to be dead as on 18-10-2004 and his LRs have been brought on record. Therefore, relief of his reinstatement gets ruled out.

13. Now, coming to the relief of back wages and other benefits. We have no evidence brought on record by the management to deny him the back wages from the date of his termination till the date of his death. However, as argued for the management the first party cannot be granted back wages from the date of termination till the date of reference, for the reason that his services came to be discontinued by the order dated 25-3-1999 and whereas, he appears to have raised the dispute somewhere in the year 2003. There has been absolutely no explanation offered on behalf of the first party in the claim statement or in the statement of WW 1, examined before this tribunal as one of the legal heirs of the first party, as to what prevented the first party in not raising the dispute well within time or within reasonable time after his services were terminated. Therefore, in my opinion no back wages can be paid to the first party or to his legal heirs for the period in between the date of his termination and the date of the present reference made on 27-1-2003. He can be paid back wages subsequent to the date of reference and till the date of his death which took place on 18-10-2004.

14. Now, the next question to be considered would be what should be the quantum of the back wages. Their Lordship of Supreme Court in the above said judgement have laid down certain criteria with regard to the remuneration to be paid to the Deposit Collector in the following terms :

> "They shall be paid the full back wage of Rs. 750 per month linked with minimum deposit of Rs. 7,500 per month and they should be paid incentive remuneration at 2% for collection of over and above Rs. 7500 per month and they would also pay uniform conveyance of Rs. 50 per month for deposit of less than Rs. 10,000 and Rs. 100 per month for deposit of more than Rs. 10,000 up to or above Rs. 30,000 per month they should be paid Gratuity of 15 days commission for each year of service rendered".

15. In the instant case no evidence as such has been pressed into service either on behalf of the first party or on behalf of the management as to what was the actual collection being made by the first party and how much commission he has been paid over the amount collected by him as Deposit Collector. Therefore, the first party in this case cannot be considered to be paid back wages strictly in terms of the above said formula prescribed in the aforesaid judgement. In the result, taking into consideration the period elapsed between the date of reference and the date of death of the deceased first party workman and that he should have been paid atleast a sum of Rs. 750 per month linked minimum Deposit of Rs. 7500 per month plus incentive remuneration at 2% for collection over and above of Rs. 7500 per month and so also taking into consideration the retrenchment compensation to be paid and the benefits of Gratuity etc. It appears to me that ends of justice will be met, if the legal heirs of the first party workman are awarded a compensation of Rs. One Lakh towards the full and final satisfaction of the claim of the first party against the management. In the result, reference is answered accordingly, by passing the following Award :

AWARD

The Management is directed to pay a sum of Rs. 1 lakh to the legal heirs of the first party already brought on record by way of compensation towards the full and final settlement of the claim of the deceased first party against the management. The amount shall be paid within a period of six months from the date of publication of this award, failing which the amount shall carry an interest at the rate of 9 percent per annum from the date of expiry of the period of six months till the date of its realisation. No. costs.

(Dictated to PA transcribed by her corrected and signed by me on 24th January 2007)

A. R. SIDDIQUI, Presiding Officer

नई दिल्ली, 6 फरवरी, 2007

का.आ. 639.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सिंडिकेट बैंक के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय बंगलौर के पंचाट (संदर्भ संख्या 51/2002) को प्रकाशित करती है, जो केन्द्रीय सरकार को 5-2-2007 को प्राप्त हुआ था ।

[सं. एल-12012/93/2002-आई आर (बी-II)]

राजिन्द्र कुमार, डेस्क अधिकारी

New Delhi, the 6th February, 2007

S.O. 639.— In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 51/2002) of the Central Government Industrial Tribunal-cum-Labour Court, Bangalore as shown in the Annexure, in the Industrial Dispute between the management of Syndicate Bank and their workmen, which was received by the Central Government on 5-2-2007.

[No. L-12012/93/2002-IR (B-II)]

RAJINDER KUMAR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, BANGALORE

Dated 19th January, 2007

PRESENT:

SHRI A. R. SIDDIQUI, Presiding Officer

C.R. No. 51/2002

I Party

Shri Mohan Padubidri, Shrinidhi,
Tambu Shetty Compound,
Agarmelu, Surathkal-574158

II Party

The Asstt. General Manager,
Syndicate Bank,
Zonal Officer,
Syndicate Towers,
Udupi-576101

AWARD

1. The Central Government by exercising the powers conferred by clause (d) of sub-section 2A of the Section 10 of the Industrial Disputes Act, 1947 has referred this dispute vide order. No. L-12012/93/2002(IR(B-II) dated the 5th September, 2002 for adjudication on the following schedule.

SCHEDULE

"Whether the action of the management of Syndicate Bank, Zonal Office, Udupi, in imposing major punishment of dismissal from service on Shri Mohan Padubidri, Ex-attendar, Kadri Branch, Mangalore for his alleged act of misconduct is justified? If not, what relief the said workman is entitled?"

2. The first party workman by way of his Claim Statement challenged the enquiry proceedings conducted against him as opposed to the principles of natural justice and the findings of the enquiry as perverse and the order of dismissal passed against him as unjust and illegal.

3. Whereas, the management by its Counter Statement denied the allegations of the first party and asserted for proceedings of the enquiry held against the first party were in accordance with the principles of natural justice, the findings of the enquiry officer were supported by sufficient and legal oral and documentary evidence and that order dismissing the first party from service was justified and legal under the facts and circumstances of the case and that punishment of dismissal was proportionate to the gravity of the misconduct committed by the first party. Based on the respective contentions of the parties with regard to the validity and fairness or otherwise of the enquiry proceedings, this tribunal on 6-1-2005 framed the following preliminary issue :

> "Whether the Domestic Enquiry conducted against the first party by the second party is fair and proper?"

4. During the course of trial of the said issue the management examined the enquiry officer as MW1 and got marked 19 documents at Ex.M1 to M19. The first party adduced his oral evidence and after having heard the learned counsels for the respective parties this tribunal by order dated 26-7-2006 recorded a finding on the above said issue holding that the Domestic Enquiry conducted against the first party by the Second Party is fair and proper. Thereupon, the matter came to be posted for argument on merits so to say on the alleged perversity of the findings and the quantum of the punishment.

5. Learned counsel Shri B.D. Kuttappa for the first party in his arguments mainly referred to one document namely, the withdrawal slip marked at Ex. MEX3 during the course of enquiry. His contention was that Ex. MEX3 bears the signature of Smt. Sundari, the complainant in this case on its face as well as at 3 places on its reverse and that fact must dislodge the case of the management that the first party withdrew the amount of Rs. 7000/- from the account of Smt. Sundari. His contention was that Smt. Sundari herself having signed the withdrawal slip on 19-12-2000 withdrew a sum of Rs. 7000 and her complaint that the first party had taken her signatures on the withdrawal slip stating that it was a receipt for having introduced one Smt. Devaki Shetty with the bank for opening her account was false and motivated and therefore, the entire charge sheet allegations against the first party that he withdrew a sum Rs. 7000/- from the SB account of Smt. Sundari and misappropriated the said amount for himself must fall to the ground. Learned Counsel therefore, submitted that the findings of the enquiry officer in holding the workman guilty of the charges were not proper and correct in the face of the evidence brought on record during the course of enquiry. He submitted that the learned Enquiry Officer did not appreciate the defence of the first party with regard to the above said withdrawal slip and the fact that Smt. Sundari had signed the said withdrawal slip not at one place but at four places.

6. Whereas, the learned counsel for the management while supporting the findings of the enquiry officer

submitted that the management in order to substantiate the charge of misconduct levelled against the first party examined in all six witnesses as MW1 to MW6 including the said Smt. Sundari as MW6 and got marked as many as 14 documents including the complaint dated 31-1-2001 and the letters dated 13-2-2001, 16-3-2001 and 27-7-2001 of Smt. Sundari speaking to the fact that the first party played fraud upon her by taking her signatures upon the withdrawal slip on the pretext that it was a receipt for having introduced Smt. Devaki Shetty to the bank to open her account. He contended that the above said statement of Smt. Sundari made before the enquiry officer has been very much corroborated and supported by the various documents produced during the course of enquiry apart from the aforesaid complaint and the letters of Smt. Sundari coupled with the evidence of other management witnesses. He submitted that the defence taken by the first party that he in fact obtained a loan of Rs.7000 from Smt. Sundari in the evening of 19-12-2000 and that thereafter he returned back the said loan amount to Smt. Sundari under the receipt dated 13-3-2001 marked at Ex.MEX-8 during the enquiry was an after thought and the story invented by the first party just to come out of the clutches of the charges of misconduct levelled against him. Learned counsel invited attention of this tribunal to the evidence, oral and documentary produced during the course of enquiry and the reasonings assigned by the learned enquiry officer in coming to the conclusion that the first party was guilty of the charges of misconduct levelled against him.

7. After having gone through the records, I find very much substance in the arguments advanced for the management. As noted above, learned counsel for the first party mainly relied upon the circumstance that the above said withdrawal slip through which the first party said to have withdrawn a sum of Rs.7000 from the SB account of Smt. Sundari bears her signatures on four places and therefore, it is to be presumed that it is the said lady herself who had withdrawn the amount from her account on 19-12-2000 and that her complaint made against the first party that he withdrew the said amount taking her signatures on the said withdrawal slip was false and motivated. The facts not disputed in this case are that on 19-12-2000 the first party accompained one Smt. Devaki Shetty to the management bank and it is on her introduction SB account was opened in the name of said Smt. Devaki Shetty bearing account No. 325340. It is not in dispute that as on 19-12-2000 Smt. Sundari held her SB account No. 31385 and had signed certain forms necessary for opening of the account in the name of Smt. Devaki Shetty. It is again not in dispute that the withdrawal slip at Ex.MEX-3 through which a sum of Rs.7000 was withdrawn on that day from SB account of Smt. Sundari bears her signatures on its face as well as on its back at four places. It is not in dispute that earlier to that also Smt. Sundari had withdrawn amounts from the bank with the help of withdrawal slips and also had taken the help of first party in filling up the withdrawal slip. It is again not in dispute that the withdrawal slip in question was also filled up by the first party under his own handwriting. Now, the only question to be considered is whether under the above said withdrawal slip it is the first party who withdrew the amount of Rs. 7000 from SB account of Smt. Sundari by playing fraud upon her taking her signatures on the said slip under the guise that it was a receipt to be passed by her for having introduced Smt. Devaki Shetty for the purpose of opening of the SB Account in her name. The management in order to substantiate the said charge as noted above, has examined in all six witnesses and got marked 14 documents. The most important evidence to be considered in this case was the statement of Smt. Sundari herself as she was the person competent to speak to the fact as to whether she was deceived by the first party in withdrawing the said amount of Rs. 7000 from her SB Account. This lady as could be read from her statement, in no uncertain terms has spoken to her complaint made before the branch manager on 31-1-2001 and has given in detail as to what actually happened on 19-12-2000 when she visited the bank for the purpose of opening of SB Account in the name of Smt. Devaki Shetty, she being herself account holder to the bank concerned. She has spoken to all the facts narrated in her complaint and her statement has not only been supported by her oral testimony before the enquiry officer but also by way of various letters she wrote to the bank authorities even subsequent to the above said receipt dated 13-3-2001 marked at Ex.MEX-8 during the course of enquiry, where under it is said that she passed the said receipt for having received a sum of Rs.7000 from the first party which he had taken from her as a loan. Learned enquiry officer has dealt elaborately and in detail the oral and documentary evidence brought on record and it appears to me worthwhile to bring on record the very reasonings given by him in appreciating the evidence adduced by the management and in rejecting the defence taken by the first party in denying the charges of misconduct levelled against him. The reasonings given by the learned enquiry officer found on pages 18 to 21 are as under:

> The evidence MW6 coupled with the documents MEX-6, MEX-7 and MEX-10, MEX-11 and MEX-13 individually and repeatedly indicate that a sum of Rs.7000 was withdrawn by CSE without the knowledge of MW6 from her SB Account. The contention of MEX-6 acquires due support and corroboration in MEX-5 in the passbook which shows all the three entries on 19-12-2000, 6-1-2001 and 29-1-2001 as having been made only on 29-1-2001 as mentioned by her to evidence her detecting the withdrawal of Rs. 7000 on 19-12-2000 only on 29-1-2001 belatedly. The evidence of MW1 also confirms the above position. According to MW1, MOI guidelines only indicate that payment should not be made in respect of withdrawal slip drawn payable to others, other than the account holder and the payment of such withdrawals can be effected against the receipt of token noted thereon and there is concurrent in the main issues involved in MEX-8 and MEX-10 with the fact remaining that CSE by misusing his official position and with dishonest intention fraudulently took the signatures of Smt. Sundari on MEX-3, withdrew money without her knowledge and misappropriated the amount for himself.

The evidence of MW2 and MW3 also indicate that the money was withdrawn by CSE without her knowledge. However, CSE in the deposition has come out with the version that Smt. Sundari had herself withdrawn the money which he later obtained as a loan on the same day evening from her house which version in the absence of any supporting material and against the emphatic contention of Smt. Sundari herself is against the emphatic contention of Smt. Sundari herself is not convincing enough. Hence in the circumstances and considering the strength of evidence available before the enquiry, CSE's withdrawing Rs. 7000 without her knowledge gets sustained, which being more reliable/believable.

As per the evidence adduced the amount of Rs. 7000 was withdrawn on 19-12-2000 vide MEX-3 and the same was known/found by the Complainant (MW6) on 29-1-2002 due to pass book entry in MEX-5 made on the said date and as per MEX-13 forwarded under MEX-14, the complainant has received from CSE Rs. 6000 in March and the balance Rs. 1000 on 8.7.2001. However, in the meantime vide MEX-8 dated 13.3.2001 she had signed on a stamped receipt for having received entire Rs. 7000 from CSE which was produced by CSE to the bank and which was later contradicted in respect of the amount and loan aspects mentioned therein by the complainant signatory herself in MEX-11 on certain convincing reasons which was also deposed/confirmed by her in the enquiry. Although the CSE/DW1 has tried to bring in the element of loan aspect in the matter without backed by any convincing grounds other than MEX-8, since the complainant (MW6) has consistently and cogently stuck to her stand that the money was withdrawn without her knowledge and no loan is given to CSE by her, his misappropriating the amount for himself from 19-12-2000 until he actually returned the same to her sticks. Similarly it has come on record that only after the complaint dated 31-1-2001 vide MEX-6 was lodged with bank, the CSE had reimbursed a part of the amount in March and the remaining part on 8-7-2001 to the complainant as per MEX-13, the earlier receipt *vide* MEX-8 having contradicted *vide* Ex. MEX-11. Though the CSE/DW1 states that he has repaid in one installment as mentioned in MEX-8 dated 13-3-2001 the facts/position brought out in the enquiry vide MEX 11, 13 & 14 are more believable/convincing to accept the same as true. Further as a corollary, it follows that MEX-8 has been prepared by CSE addressed to Moodabidri branch therein introducing the loan element as well as the non existence of any deceitful actions on his part only to cover up his fraudulent acts: And his having obtained her signature thereon against her free will has been convincingly and effectively eulogized in MEX-11 by the complainant duly indicating her predicaments when CSE along with 3 other persons on two motorcycles went to her house to obtain her signature on MEX-8 and has also been orally deposed/evidenced by her in the enquiry as MW6 notwithstanding the scrutiny by defence: Therefore, obtaining her signature against her free will on MEX-8 becomes more convincing and believable to be true in the absence of effective rebuttal. It has also come on record very clearly that the said MEX-8 so obtained by the CSE with three others though addressed to the Branch Manager, Moodabidri branch was submitted by the CSE himself to Kadri Managlore branch and forwarded by the said branch vide MEX-9 to 20 and through which CSE had tried to make it appear that he took a loan of Rs.7000 from her and repaid the same.

The management side evidence tendered through MW1 to 6 to the above effect have gone on record rebutted and unrepudiated. The evidence adduced by CSE as DW1 could not rattle and disturb the essence of the allegation of the complainant (MW6) made against the CSE. The documentary evidence from MEX1 to 14 clearly and convincingly go to substantiate the role played by the CSE in the entire matter.

The contrary/rebuttal evidence of the DW1 does not provide convincing reasons to accept the same as true against the management evidence. The defence contentions regarding the amount having been given to him as Loan, MEX 3 being not red in colour as DEX1, complainants complaints being false, her signatures being in different style and not tallying, her knowing the procedure for withdrawal of money, she herself withdrawing money having put three signatures on the reverse side of MEX-3, compliance aspects of HO Cir.134/99/BC vide DEX2, timings of her coming back at around 2 pm (noon) on 19-12-2000, complaints having been written as instructed by others etc. have all not caused any serious dent on the stead fast and otherwise consistent complaints of MW6, her evidence in the enquiry and other management side evidence. The defence perspectives on certain contractions in the deposition of MW1 regarding the visit of MW2 to the complaint's house regarding kempu cheeti, regarding the author of MEX6 and MEX7 handing over of Rs. 250 to the CSE taking signature at about 2 pm (noon) etc. as causing discredit to the entire management evidence, have no much weight on the strength of the evidence materials in totality. The defence contention about the absence of best evidence as to the vital question of who received the payment of MEX-3, the responsibility on the counter clerk who issues withdrawal slip supervisory staff, cash scroll officer and cashier in this regard, in firm/ inconsistent deposition of MW1 and doubtfulness of the impartial nature of investigation, preliminary investigation done behind the back of the CSE, MW6 not being consistent but under threat from her brother and inconsistency in her complaint letters MEX-6 ,7,10 & 11, prejudices of MW3 the hranch manager, non furnishing of preliminary investigation report of MW2 and non production of the same before the enquiry which is said to have suggested a thorough investigation from vigilance angle, the delay of 3 months in issuing charge sheet and that the complaint itself is false lacking in veracity etc. do not

alter the material position nor the same by themselves acquire credence to nullify and totally negate the evidence of management side. Some of these perspectives are quite superficial and hollow and some without meriting any serious cognizance, nor such aspects caused any prejudice to the defence.

The ingredients of the charge sheet have been sustained in the enquiry. The evidence of the management side i.e. oral, documentary and circumstantial, brought out in the enquiry could not be refuted/dislodged by the defence and the answers to cross examination questions by the Management witnesses have not diluted the management's case. There has been a pattern of consistency and corroboration in the management evidence all pointing towards a certain possibility of the acts committed by the CSE. MW6 is very clear and unambiguous that even though she had withdrawn money earlier on 5-6 occasions through withdrawal slips in the instant specific case and on the said day, she had not given her signatures to withdraw money at all, but had come to the branch only for introduction of a new account when such signatures have been given on the asking of the CSE. The CSE's version lacks credibility in as much as his frequently replying to certain cross examination questions to the effect that he has nothing more to say as if reluctant to come out with more/full/clear facts. In these circumstances, the defence perspectives fail to impress (otherwise than a mere possibility or a theory) besides there being no corroborative, cogent and credible or circumstantial evidence in support to consider and accept the same as true and plausible to have happened."

8. Therefore, from the reading of the above said passage, it becomes crystal clear that there was a fraud and cheating committed by the first party in obtaining the signatures of Smt. Sundari on the aforesaid withdrawal slip at Ex.MEX-3 and it is with the help of said withdrawal slip he had withdrawn the sum of Rs.7000 from the SB account of Smt. Sundari and appropriated the said amount for himself. The defence taken by the first party that he had taken the said amount of Rs. 7000 from Smt. Sundari, certainly, was an afterthought and a make believe story just to hood wink the bank authorities. The story put forth by him with regard to loan must fall to the ground firstly, for the reason that no such defence as such was taken by the first party while giving reply to the charge sheet. It is his case that on the very evening of 19-12-2000 he visited the house of Smt. Sundari and had taken a loan of Rs.7000 which he returned back under the aforesaid receipt at Ex. MEX-8. If really he had taken the loan of Rs. 7000 from Smt. Sundari and thereafter returned back the same on 13-3-2001 under the said receipt then, this fact he must have disclosed in the very explanation he offered against the charge sheet. His explanation dated 30-7-2001 marked before this tribunal at Ex. M3 is conspicuously silent about the fact of his taking the loan from Smt. Sundari and thereafter returning back to her under receipt at Ex. MEX8. Therefore, his defence that he took the amount of Rs.7000 from Smt. Sundari and returned back the same to her under the said receipt was an after thought and improved version just to overcome the charges of misconduct leveled against him. Infact, by taking this stand the first party indirectly and impliedly admitted the fact of having received Rs.7000 under the said withdrawal slip on 19-12-2000. The fact that as on 19-12-2000 Smt. Sundari did not come to the bank along with her pass book and there was no debit entry of that amount in the said pass book as on that day has been very much established by the management by producing the pass book itself. This pass book goes to suggest that as on 19-12-2000 there was no debit entry made in the pass book with regard to the withdrawal of Rs. 7000. This debit entry of Rs. 7000 infact comes to be made in the pass book as on 29-1-2001 when said Smt. Sundari had come to the bank and withdrawn a sum of Rs. 1000. She came to know about the withdrawal of Rs. 7000 from her SB Account only after having looked into the pass book entries made on 29-1-2001. It is on 29-1-2001 the debit entry of Rs. 7000 was found mention showing that said amount was withdrawn on 19-12-2000. If really the above said lady had withdrawn a sum of Rs. 7000 with the help of said withdrawal slip, then, certainly there must have been a debit entry for the said amount in her pass book. The fact that there was no such debit entry in her pass book must lend support to her complaint that on that day she did not come to the bank for the purpose of withdrawing the amount but for the purpose of introducing the said Smt. Devaki Shetty for opening her SB Account. It is in this view of the matter, it is very difficult to discard the evidence of Smt. Sundari that the first party obtained her signatures upon the withdrawal slip on the pretext that it was receipt to be passed by her for having introduced Smt. Devaki Shetty with the bank. Moreover, we have got absolutely no reasons not to believe the complaint made by Smt. Sundari as against the first party. Absolutely no motive was attributed as to what prompted her to make such a false complaint against the first party. Her complaint against the first party also has to be believed for the reason that the first party in order to get rid of the charges of misconduct leveled against him manipulated the above said receipt at Ex. MEX.8 to make it appear that he had taken a loan of Rs.7000 from the said lady and returned it back thereafter and there was no case of any cheating committed by him. Smt. Sundari examined before the enquiry officer as MW6 has given the facts in detail as to under what circumstances she had to pass the above said receipt at Ex. MEX-8 reading to the effect that she received a sum of Rs. 7000 from the first party given to him as loan. Subsequent to the said receipt under the various letters referred to supra, she has made it abundantly clear that on the day she passed receipt at Ex. MEX-11. the first party came to her house accompanied by three persons and prevailed upon her to pass such a receipt having paid Rs. 6000 as against the figure of Rs. 7000 shown in the said receipt. It is also in the evidence that the remaining balance of Rs.1000 was also paid by the first party subsequently in the month of July 2001. Therefore, in the light of the oral and documentary evidence brought on record and more particularly, the statement of Smt. Sundari, the veracity and credibility of which could not be shaken during her cross examination on behalf of the first party and in view of

the very defence taken by the first party that he had paid back said amount of Rs. 7000 to said Smt. Sundari subsequent, to the issuance of charge sheet, it cannot be said that findings of the enquiry officer suffered from any perversity. These are the findings supported by sufficient and legal evidence not to be interfered at the hands of this tribunal. In the result, I must hold that charges of misconduct leveled against the first party stands proved.

9. Coming to the question of quantum of punishment, keeping in view the nature of misconduct committed by the first party and the fact that his past record has been unblemished till the date he committed the misconduct on hand, it appears to me that ends of justice will be met if the order of dismissal passed against him is replaced with the order of termination of his services so as to enable him to get service benefits for the services he rendered with the management as on the date he was dismissed from service. Hence the following award:

AWARD

The order of dismissal passed against the first party is hereby modified by the order of termination of his services. No costs.

(Dictated to PA transcribed by her corrected and signed by me on 19th January, 2007)

A.R. SIDDIQUI, Presiding Officer

नई दिल्ली, 6 फरवरी, 2007

का.आ. 640.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार पंजाब नेशनल बैंक के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, नागपुर के पंचाट (संदर्भ संख्या 37/99) को प्रकाशित करती है, जो केन्द्रीय सरकार को 05-2-2007 को प्राप्त हुआ था ।

[सं. एल-12012/189/99-आई आर (बी-II)]

राजिन्द्र कुमार, डेस्क अधिकारी

New Delhi, the 6th February, 2007

S.O. 640.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 37/99) of the Cent. Govt. Indus. Tribunal-Cum-Labour Court, Nagpur as shown in the Annexure, in the Industrial Dispute between the management of Punjab National Bank and their workmen, received by the Central Government on 5-02-2007.

[No. L-12012/189/99-IR (B-II)]

RAJINDER KUMAR, Desk Officer

ANNEXURE

BEFORE SHRI A.N. YADAV, PRESIDING OFFICER, CGIT-CUM-LABOUR COURT, NAGPUR.

Case No. CGIT/NGP/37/1999 Date : 23-01-2007

Petitioner :	Smt. Vimal W/o Suresh Mankar,
Party No. 1	R/o Plot No. 280, Ramsumer Nagar, Kawdapeth, In front of Giri's House, Shanti Nagar, Nagpur-440002.
	Versus
Respondent :	Punjab National Bank, The Regional
Party No. 2	Manager, Punjab National Bank, Kingsway, Nagpur-440001.

AWARD

[Dated : 23rd January, 2007]

1. The Central Government after satisfying the existence of disputes between Smt. Vimal W/o Suresh Mankar, R/o Plot No. 280, Ramsumer Nagar, Kawdapeth, In front of Giri's House, Shanti Nagar, Nagpur-440 002 Party No. 1 and Punajb National Bank, The Regional Manager, Punjab National Bank, Kingsway, Nagpur-440 001 Party No. 2 referred the same for adjudication to this Tribunal vide its Letter No. L-12012/189/99—IR (B-II) Dt. 12-11-1999 under clause (d) of sub-section (1) and sub-section (2A) of Section 10 of Industrial Disputes Act, 1947 (14 of 1947) with the following schedule.

2. "Whether the action of the management of Regional Manager, Punjab National Bank, Nagpur in terminating the service of Smt. Vimal W/o Shri Suresh Mankar, w.e.f. 13-07-1998 is legal, proper and justified? If not, what relief the said workman is entitled and from what date?"

3. It is the case of the petitioner that she worked at Punjab National Bank, Lakadganj Branch, Nagpur, from 01-11-1993 to 13-07-1998 as a peon-cum-cleaner for doing a miscellaneous work like cleaning office premises, carrying water etc. This work is of a permanent nature and the post is also permanent, on the part time basis, Earlier to her, her mother-in-law was appointed on the same post and she was a permanent part time workman. Initially she was paid Rs. 15 per day and her working hours were from 9.30 to 12.00 noon. The payment was made by voucher, however, from 1994 she was paid Rs. 1,800 per month.

4. It is contended that one Shri Tilak Khare is given a work which she was doing. One other lady was also engaged on a part time basis for same work. This engagement was also on a part time basis, she is claiming to have worked for more than 240 days continuously. According to her one Smt. Pramila Nagpur was engaged in the year 1995 in the Indora Branch, one Smt. Rekha was also engaged subsequent to her on the same work and as a part time workman. They both are made permanent. Thus according to her, the juniors were made permanent in contravention of provisions of law. There was no reason for terminating her services. She was not paid retrenchment compensation or a notice while terminating the service. The provisions of Section 25F and 25H of Industrial Disputes Act are not followed. Junior persons to her were continued who are doing the same work. According to her oral termination is illegal, violating the provisions of Section 25F, 25G and 25H of I.D. Act. Thus according to her she is entitled for reinstatement with the back wages and continuity of the service w.e.f. 13-08-1998

5. On behalf of management the claim has been resisted by filing the Written Statement. It has admitted that mother-in-law of the petitioner was a permanent part time employee of the respondent bank. The petitioner was given the work on a casual/Ad-hoc basis during the period of absence of Smt. Kaushalyabai, her mother-in-law. Similarly her appointment used to come to end as soon as her mother-in-law joined duties, on expiry of certain period. Her mother-in-law was absent for longtime due to her illness. Later on Smt. Kaushalyabai took a voluntary retirement and therefore, her post became vacant. In her post one Shri Tilak Khare was posted to work at Lakadganj Branch, Nagpur who joined from 12-04-1998. As soon as the regular

employee came on a transfer from another branch the engagement of Smt. Vimal Mankar was came to an end. She was not a regular selected employee of the respondent. Her engagement was purely on casual/Adhoc basis as a stop gap arrangement and as soon as the regular employee came her services came to an end. As she was not a regular employee there was no need of any order of termination. She was never an employee of the bank and therefore, there was no question of any order terminating her services. Smt. Kaushalyabai had also applied for the appointment of her daughter-in-law on a compassionate ground. However, since she has taken a retirement after completion of 55 years of age her prayer was rejected. That the petitioner cannot be engaged on a compassionate ground. It is also contended that the petitioner is over qualified for the post of part time sweeper and she was not at all illegible. Thus according to the respondent there is no question of violating any provisions of Section 25F, 25G & 25H of I.D. Act. Similarly she is not entitled for the reinstatement. It has prayed to dismiss the reference.

6. On the basis of this pleading the only point that arises from my consideration is :—

"Whether the action of management i.e. present respondent in terminating the services of the petitioner Smt. Vimal Mankar w.e.f. 13-07-1998 is legal, proper and justified. And whether she is entitled for any other relief."

7. As indicated above the petitioner Smt. Vimal Mankar is claiming that she worked as a peon-cum-cleaner for a period from 01-11-1993 to 13-07-1998. According to her services were terminated without payment of compensation under the provisions of Section 25(f). She has also contended that her juniors are made permanent but despite of her representation Dt. 03-09-1998. According to her, she is entitled for the regularization as well as for reinstatement with full back wages.

8. In order to prove her contentions she has examined herself and asked the management to produce list of days for which she has been paid during this period. While the management in order to rebut her contentions has examined one witness i.e. one of its officers having knowledge of it. It is there contention that she was never employed by the management and she had worked only in the leave vacancy of her mother-in-law who was working on the permanent post as a part time employee for cleaning the bank premises and carrying the water etc.

9. The perusal of evidence clearly indicates that she was not in a continuous service of the respondent management. It is undisputed that her mother-in-law was working on the permanent post in the bank and the petitioner had worked only when she was ill during her leave vacancy. Her evidence itself is enough to prove that she was never engaged even after voluntarily retirement by her mother-in-law because there is no order appointing her in the post of her mother-in-law. It is an admitted fact that her mother-in-law at the time of taking voluntarily retirement has requested the management to engage the present petitioner in her place on a compassionate ground. But her request was turned down by the management for the reasons to which we are not concern in the present case, because she has not claimed a service on a compassionate ground. Therefore, apart from the reasons in that respect one thing is clear that she was never appointed in the permanent post of her mother-in-law. She worked only during the leave vacancy. No doubt after accepting the voluntary retirement till Mr. Tilak took the charge on his transfer from the other branch petitioner was asked to work on daily wages, but it is clear that her appointment was only on ad-hoc basis. Therefore it is clear that her appointment was never made in any vacant post. During this period her mother-in-law was very well in service and she was never given any written order. Her appointment undisputedly was not made by following the procedure of recruitment as per Recruitments Rules of the Bank nor there was vacant post on which she had worked. A bare perusal of a statement submitted by the management of the working days of the petitioner indicates that she was never in a continuous service. Though she had claimed that some other person though appoint subsequent to her were made permanent indicating a breach of Section 259(h) but that has no consequence because she was never appointed on any vacant post. The same thing is in respect of her claim under Section 25(f) regarding the retrenchment compensation. It cannot be retrenchment and since she was working simply in leave vacancy of her mother-in-law cannot acquire any right much less of getting retrenchment compensation and regarding the seniority or breach of the principles of "LAST COME FIRST GO". She is also not entitled for claiming any permanency.

10. The petitioner has cited some case laws but the constitutional bench of the Hon'ble Supreme Court in a case reported in 2006 Supreme Court Cases (L&S) 753 has clearly laid down the law that the contractual appointments made on a Ad-hoc basis on daily wages or on the casual basis comes to an end when it is discontinued. Similarly a temporary employee can not claim permanency on the expiry of his terms of appointment. The Hon'ble Apex Court had clarified that the time beyond the terms of appointment would not entitled to be absorbed in a regular service or made permanent, merely on the strength of such continuance, if the original appointment was not made following to the due process of selection as envisage by the relevant rules. Here in our case undisputedly she was not given a written order, it was not even a temporary appointment and it was simply appointment on daily wages appointment during the leave vacancy of her mother-in-law. Therefore, in the light of the above principles of the constitutional bench of the Hon'ble Apex Court her appointment neither can be made permanent nor she can be directed to reinstate because no such right is accrued in her. Similarly she would not be entitled for any compensation as envisage under Section 25(f) or any benefit as per Section 25(h) of Industrial Dispute Act. In the result I conclude that the action of the management was proper, legal and justified. She is not at all entitled to claim any relief. Hence her claim is turned down and accordingly reference has been returned to the Ministry.

Hence this award.

A. N. YADAV, Presiding Officer

Dated : 23-01-2007

नई दिल्ली, 6 फरवरी, 2007

का.आ. 641.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सीरटिस के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण नं. 2, नई दिल्ली के पंचाट (संदर्भ संख्या 79/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 6-2-2007 को प्राप्त हुआ था ।

[सं. एल-42012/162/2003-आई आर (सी-II)]

अजय कुमार गौड़, डेस्क अधिकारी

New Delhi, the 6th February, 2007

S.O. 641.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 79/2004) of the Central Government Industrial Tribunal-cum-Labour Court, No. II, New Delhi as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of CIRTES and their workmen, which was received by the Central Government on 6-2-2007.

[No. L-42012/162/2003-IR (C-II)]

AJAY KUMAR GAUR, Desk Officer

ANNEXURE

BEFORE THE PRESIDING OFFICER : CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, NEW DELHI

Presiding Officer : R. N. RAI

I. D. No. 79/2004

PRESENT

Sh. Aditya Agarwal —1st Party

Sh. K. R. Sachdeva —2nd Party

In the matter of :

Smt. Raj Kali,
W/o. Shri Charan Singh,
C-79, Dashrathpuri, Dabri Area, New Delhi
New Delhi

Versus

The Director,
C.I.R.T.E.S.,
Pusa, New Delhi,
New Delhi

AWARD

The Ministry of Labour by its Letter No. L-42012/162/2003-IR (CM-II) Central Government Dt. 2-6-2004 has referred the following point for adjudication.

The point runs as hereunder :—

"Whether the action of the management of Central Institute for Research & Training in Employment (CIRTES) in terminating the services of Smt. Rajkali w.e.f. 13-8-1982 is legal and justified ? If not, to what relief she is entitled.?"

The workman applicant has filed claim statement. In the claim statement it has been stated that the workman was employed as a Safaiwala from 22-9-1981 to 28-2-1982 and from 1-3-1982 to 13-8-1982 when her services were terminated without assigning any reason and without complying with the provisions ot Section 25 F and 25 G of the I.D. Act, 1947.

That the workman made repeated representations to the management for allowing her to perform her duty but she was informed that her matter is under consideration but no action has been taken nor the workman has been given employment.

That the action of the management in terminating the services of the workman is *ab initio void* for not complying with the provisions of Section 25 F and 25 G of the Act. As such, the action of the management was *ab initio void*. It can be challenged whenever it is not enforced as held by the Hon'ble Supreme Court in AIR 1954 SC 340. The workman on 11-6-2002 requested the management to allow her to join duty as several fresh hands have been engaged by the management which is violative of Article 14 of the Constitution of India.

That the management is an industry as training is given to the personnel for giving employment to persons for working through employment exchange.

That the service to satisfy human want is carried on by the management and it is thus an industry.

That it is well settled that a department of Government or any other authority which is a state under Article 12 of the Constitution of India is an industry if systematic activity is carried on by the cooperation between the employer and the employee for rendering service with a view to satisfy human want and wishes.

That the management is not discharging any sovereign function and is thus an industry as defined in Section 2 (j) of the Act as held by the Division Bench of the Calcutta High Court in the case of West Bengal and Ors. *Vs.* Naini Gopal Jana and Ors. 1991 1 LLJ 1116.

That the Madhya Pradesh High Court in Technical Teachers Training Institute and Hari Narain Bhat has held that technical training institute is an industry within the definition of industry as defined in Section 2 (j). It has also been held by the Hon'ble Supreme Court in Miss. A. Sunderbal *Vs.* Goa Daman and Diu that educational institutions falls within the definition of industry. That the Telecom Department of Union of India has been held to be an industry by Delhi High Court in Shiv Dutt *Vs.* Presiding Officer, Industrial Tribunal and Anr. 1999 2 LLJ 842.

That the seven Hon'ble Judges of Supreme Court have recently affirmed the earlier judgment of the Supreme Court in Bangalore Water Supply and Sewage Board *Vs.* A. Rajappa 1978 1 LLJ 349.

That the petitioner has worked for more than 240 days in a calendar year and her services have been

terminated without complying with the provisions of Section 25 F of the I.D. Act, 1947. The termination is *ab initio void.* The workman is thus entitled to reinstatement with full back wages.

That it is further submitted that the action of the respondent is illegal and as much as the persons junior to the management was allowed to continue in service in clear violation of the provisions of Section 25 F and 25 G of the Act.

That the workman after termination of her services on 13-8-1982 is without any job. The claimant has not worked any where else during the aforesaid period.

That the claimant has approached the respondents several times but the respondents have failed to consider her request through they have assured her that she would be given service within a short span of time.

It is, therefore, prayed that the action of the management of Central Institute for Research and Training in employment may be declared as illegal and the claimant be given reinstatement with full back wages.

The management/respondent has filed written statement. In the written statement it has been stated that the reference of the alleged dispute for adjudication *vide* letter dated 2-6-2004 (R-1) is improper and time barred. It is denied that services of Smt. Raj Kali were terminated w.e.f. 13-8-1982. Even otherwise prior to June, 2002, Smt. Raj Kali at no point raised any dispute regarding her termination with the respondents. Therefore, she may be estopped from raising the dispute after so long, it cannot be said that dispute within the meaning of Industrial Dispute Act, exists for determination by the Labour Court.

That the workman may be put to strict proof of her employment with the management. No records are available in the office regarding her engagement as the old records are weeded out as per procedure of Government of India. As a general practice, service of workers are utilized on daily wages during the absence of regular Safaiwala. It may be submitted that at the relevant time, Smt. Raj Kali's husband, Shri Charan Singh was working as a regular Safaiwala, till his voluntary retirement on 1-3-2000.

That the workman was given a reply dated 23-5-1983 (R-2) and 21-5-1990 (R-3) to her representations wherein she was informed that neither any post of Safaiwala is available nor she is eligible to be appointed to any post. From the nature of this reply it is clear that this reply was not in reference to any possible dispute nor any such dispute regarding termination was raised by her at that time. From the tenure of the representation dated March, 1991 (R-4) it is clear that neither there was any termination nor any dispute to the same raised by the workman during the last 20 years.

It is denied that there was any termination of the workman, therefore, question of violation of Section 25 F and 25 G does not arise at all. On the examination of service record of the workman's husband it transpires that Shri Charan Singh has submitted an explanation dated 18-2-1983 (R-5) to a memo No.31 (20)/66-Estt. Dated 15-2-1983 (R-6). In this he is begging excuse for his absence that his wife (Smt. Raj Kali) is not keeping well as she has recently delivered a male child and there is nobody to take care of them. This document shows that it may be possible that she might have left the job of her own choice and there was no termination at all. On verification of records it is further found that Shri Anil Kumar was appointed as Safaiwala on 24-11-1982 on regular basis, in addition to Shri Charan Singh, husband of the workman.

It is clarified that this is not an institute where training is given to the personnel for giving employment to persons for working through employment exchange, as mentioned in her claim. (This statement is palpably wrong and has been made for twisting the facts to bring the Institute under the cover of the Industry). This Institute is a subordinate office of Directorate General of Employment and Training under Ministry of Labour, Government of India, which is providing in-service training to the Employment Officers as part of the National Employment Service, for which no fee is being charged. The research is being conducted to carefully monitor the efficiency of our own services for recommending modifications. As such, the Institute is concerned with the sovereign functions, not any welfare activities or economic adventures. Hence, CIRTES cannot be considered as an industry. To sight an example the Central Institute of Fisheries has not been considered as Industry in the dispute between P. Jose *Vs.* Director, CIF, 1986 Lab IC 1564 (Ker.).

That Smt. Raj Kali as per enclosures with her application, has worked for more than 240 days (This period is not in a calendar year as alleged by the workman). However, there was no dispute at the time of her alleged termination from the service. The dispute as per her application has taken up after a gap of 20 years. As such the plea of the applicant for allowing her to join the duty cannot be considered due. Moreover no post of Safaiwala is vacant.

There is no question of seniority in this case as the workman was not appointed on a regular basis. The management has never assured the workman that she would be given service within a short span of time. In this respect she has not furnished any documentary proof.

Keeping in view of the aforesaid facts the Hon'ble Tribunal may be pleased to dismiss the claim.

The workman applicant has filed rejoinder. In her rejoinder she has reiterated the averments of her claim statement and has denied most of the paras of the written statement. The management has also denied most of the paras of the claim statement.

Evidence of both the parties has been taken.

Heard arguments from both the sides and perused the papers on the record.

From perusal of the pleadings of the parties the following issues arise for determination :—

1. Whether the respondents are an Industry?
2. Whether the workman is entitled to reinstatement with back wages?

Issue No. 1

It was submitted from the side of the workman that the judgment of the Constitution Bench (1978) 3 SCR 207 still holds the field so far as definition of 2 J of ID Act is concerned. The Hon'ble Apex Court in that judgment has laid down triple tests and in the light of these tests it is to be ascertained whether the respondent/management is an Industry or not.

It has been held in Bangalore Water Supply that in an Industry there should be systematic activity and it should be organized by cooperation between the employer and the employees and it should be for production and/or distribution of goods and service calculated to satisfy human wants and wishes. It has been held that absence of profit motive or gainful objective is irrelevant. The true focus is functional and the decisive test is the nature of the activity with special emphasis on the employer and employee relations. If an organization is not carrying on trade and business, it is not beyond the purview of Industrial activities.

(1978) 3 SCR—Bangalore Water Supply case is a Constitution Bench Judgment.

It has been held in this case that Section 2(j) of the Industrial Disputes Act, 1947 which defines industry contains words of wide import as wide as the legislature could have possibly made them. The problem of what limitations could and should be reasonably read in interpreting the wide words used in Section 2(j) is far too policy oriented to be satisfactorily settled by judicial decisions. The Parliament must step in and legislate in a manner which will leave no doubt as to its intention. That alone can afford a satisfactory solution to the question which has agitated and perplexed the judiciary at all levels.

In this judgment the Hon'ble Apex Court has laid down triple tests to ascertain whether a particular unit or undertaking is an industry or not. It has been held in this case that where (i) systematic activity, (ii) organized by cooperation between employer and employee (the direct and substantial element is chimerical), (iii) for the production and/or distribution of goods and services calculated to satisfy human wants and wishes (not spiritual or religious, but inclusive of material things or services geared to celestial bliss e.g. making on a large scale prasad or food).

(b) Absence of profit motive or gainful objective is irrelevant be the venture in the public, joint, private or other sector.

(c) The true focus is functional and the decisive test is the nature of the activity with special emphasis on the employer employee relations.

(d) If the organization is a trade or business it does not cease to be one because of philanthropy animating the undertaking.

Although Section 2(j) uses words of the widest amplitude in its two limbs, their meaning cannot be magnified to over each itself.

The Hon'ble Apex Court has laid down further the dominant nature tests. It has been held as follows :

"Where a complex of activities some of which qualify for exemption, others not involves employees on the total undertaking some of whom are not workmen as in the University of Delhi case or some departments are not productive of goods and services if isolated, even then the predominant nature of the services and the integrated nature of the departments as explained in the Corporation of Nagpur will be the true test. The whole undertaking will be industry although those who are not workmen by definition may not benefit by the status.

Notwithstanding the previous clauses, sovereign functions, strictly understood (alone), qualify for exemption not the welfare activities of economic adventures undertaken by Government or statutory bodies.

Even in departments discharging sovereign functions if there are units which are industries and they are substantially severable then they can be considered to come within Section 2(j).

The respondent's unit is engaged not in a sovereign function. It has been held in the above case that even arsenal or artillery department is an industry. Industry is decided on the nature of work it is performing.

From perusal of the records it becomes quite evident that the respondent/management is engaged in systematic human activities. The respondents are not discharging duties for gains but gainful objective is irrelevant in deciding whether an undertaking is an industry or not. In case activities of the respondents are considered in the crucible of the triple tests, respondent is obviously and definitely an industry.

It was submitted from the side of the workman that the management is an industry as training is given to the personnel for giving employment to persons for working through employment exchange.

That the service to satisfy human want is carried on by the management and it is thus an industry.

It was further submitted from the side of the workman that the management is not discharging any sovereign function and is thus an industry as defined in Section 2 (j) of the Act.

This Institute is a subordinate office of Directorate General of Employment and Training under Ministry of Labour, Government of India, which is providing in-service training to the Employment Officers as part of the National Employment Service, for which no fee is being charged. The research is being conducted to carefully monitor the

efficency of our own services for recommending modifications. As such, the Institute is concerned with the sovereign functions, not any welfare activities or economic adventures. Hence, CIRTES cannot be considered as an industry. To sight an example the Central Institute of Fisheries has not been considered as Industry in the dispute between P. Jose Vs. Director, CIF, 1986 Lab. IC 1564 (Ker.).

It was submitted from the side of the management that the Institute is concerned with the sovereign functions, not any welfare activities or economic adventures. Hence, CIRTES cannot be considered as an industry.

It becomes quite obvious from perusal of the case that the respondents are engaged in training of personnel. They are not discharging any sovereign function. They are not engaged in poor research work. There is systematic activity and the management is functioning as employer and employee, so the respondents are Industry. This issue is decided accordingly.

Issue No.2

It was submitted from the side of the workman that the action of the management in terminating the services of the workman is ab initio void for not complying with the provisions of Section 25 F and 25 G of the Act. The workman on 11-6-2002 requested the management to allow her to join duty as several fresh hands have been engaged by the management which is violative of Article 14 of the Constitution of India.

It was submitted from the side of the management that the services of Smt. Raj Kali were terminated w.e.f. 13-8-1982. Even otherwise prior to June, 2002, Smt. Raj Kali at no point raised any dispute regarding her termination with the respondents. Therefore, she may be estopped from raising the dispute after so long, it cannot be said that dispute within the meaning of Industrial Dispute Act, exists for determination by the Labour Court.

It was further submitted from the side of the management that no records are available in the office regarding her engagement as the old records are weeded out as per procedure of Government of India. As a general practice, service of workers are utilized on daily wages during the absence of regular Safaiwala. It may be submitted that at the relevant time, Smt. Raj Kali's husband, Shri Charan Singh was working as a regular Safaiwala, till his voluntary retirement on 1-3-2000.

It was further submitted from the side of the management that Shri Charan Singh has submitted an explanation dated 18-2-1983 (R-5) to a memo No. 31 (20)/66-Esst. Dated 15-2-1983 (R-6). In this he is begging excuse for his absence that his wife (Smt. Raj Kali) is not keeping well as she has recently delivered a male child and there is nobody to take care of them. This document shows that it may be possible that she might have left the job of her own choice and there was no termination at all. On verification of records it is further found that Shri Anil Kumar was appointed as Safaiwala on 24-11-1982 on regular basis, in addition to Shri Charan Singh, husband of the workman.

It was submitted from the management that there is no explanation of delay. Not to speak of plausible or satisfactory explanation. There is no explanation at all what prevented the workman to approach this forum after a long period of 20 years. It is settled law that stale claim made after an inordinate and unexplained period could not be entertained.

My attention was drawn to 2005 (5) SCC page 91 paras 12 and 13. The Hon'ble Apex Court has held that long delay impedes the maintenance of the records. Belated claim should not be considered.

It has been held in (2001) 6 SCC 222 as under :

"Law does not prescribe any time limit for the appropriate Government to exercise its powers under Section 10 of the Act. It is not that this power can be exercised at any point of time and to revive matters which had since been settled. Power is to be exercised reasonably and in a rational manner. There appears to us to be no rational basis on which the Central Government has exercised powers in this case after a lapse of about seven years of the order dismissing the respondent from service."

In the instant case reference has been made after a delay of long 20 years. Limitation Act is not applicable in ID cases but stale cases should not be considered. Delay in the instant case is inordinate and relief can be rejected on the ground of delay alone.

It transpires from perusal of B-32 that in the year 1983 her husband Shri Charan Singh was also employed as a Sweeper. He has stated that his wife is seriously ill, so he could not attend his work. This also indicates that the husband of the workman was employed there. She was ill so, she left the services voluntarily. She approached the management on 11-6-2002 after inordinate delay of 20 years.

The management witness has admitted that she was employed from 22-08-1981 to 13-08-1982. It has also been admitted that she has worked for 240 days. There is extraordinary delay. She is not entitled to reinstatement on this count alone.

B -32 establish the fact that she was ill in the year 1983 so, there is no question of attending her duty. Her husband was also even absent from duty due to illness of his wife. So the case of the management that she voluntarily left her job appears to be true. She is not entitled to get any relief.

The reference is replied thus :—

The action of the management of Central Institute for Research & Training in Employment (CIRTES) in terminating the services of Smt. Rajkali w.e.f. 13-08-1982 is legal and justified. The workman applicant is not entitled to get any relief as prayed for.

Award is given accordingly.

Date : 29-1-2007.

R. N. RAI, Presiding Officer

नई दिल्ली, 6 फरवरी, 2007

का.आ. 642.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सेन्ट्रल इन्सटीट्यूट फॉर कौटन रिसर्च के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण नं. 2 नई दिल्ली के पंचाट (संदर्भ संख्या 52/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 6-2-2007 को प्राप्त हुआ था ।

[सं. एल-42012/202/2001-आई आर (सी-II)]

अजय कुमार गौड़, डेस्क अधिकारी

New Delhi, the 6th February, 2007

S.O. 642.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No.52/2004) of the Central Government Industrial Tribunal-cum-Labour Court, No. II New Delhi as shown in the Annexure, in Industrial Dispute between the employers in relation to the management of Central Institute for Cotton Research and their workman, which was received by the Central Government on 6-2-2007.

[No. L-42012/202/2001-IR(C-II)]

AJAY KUMAR GAUR, Desk Officer

ANNEXURE

BEFORE THE PRESIDING OFFICER : CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT - II, NEW DELHI

PRESIDING OFFICER : R. N. RAI

I. D. No. 52/2004

PRESENT : SH. B. K. PRASAD - 1st Party
SH. SANJAY KR. RATHI - 2nd Party

In the matter of : —

Smt. Vidyawati and 28 Ors.,
C/o. Room No. 95, Barrack No.1/10,
Jam Nagar House,
Shahjahan Road, New Delhi -110 011.

Versus

The Director,
Central Institute for Cotton Research,
Regional Station,
Sirsa (Haryana) - 125 055.

AWARD

The Ministry of Labour by its letter No. L-42012/202/2001-IR (C-II) Central Government dt. 11-10-2004 has referred the following point for adjudication.

The point runs as hereunder :

"Whether the action of the management of Institute of Cotton Research, Sirsa (Haryana) in not granting the permanent status after completion of 90 days service to the workers concerned (list of 29 workers enclosed) and not regularizing the services of the workmen from the date of their initial appointment and not granting equal pay for equal work is legal and justified? If not, to what relief the concerned workmen are entitled and from which date."

The workmen applicants have filed claim statement. In the claim statement they have submitted the chart of workers showing their date of joining on daily rated and date of temporary status under the management which is under :—

Sl. No.	Name of the workmen	Father's/Husband's Name	Date of joining on daily rated	Date of status temporary
1	2	3	4	5
1.	Smt. Vidyawati	W/o. Hari Singh	18-04-1972	24-07-1999
2.	Smt. Sunhari	W/o. Bhagwan Das	06-03-1981	01-09-1993
3.	Smt. Krishna	W/o. Bahadur Sinh	11-05-1982	01-09-1993
4.	Sh. Gajraj	Lalji Ram	05-01-1983	01-09-1993
5.	Sh. Sohan Lal	Kishan Lal	24-04-1985	01-09-1993
6.	Sh. Balli	Late Sarash Ram	10-06-1985	01-09-1993
7.	Sh. Madan Gopal	Banwari Lal	28-08-1985	01-09-1993
8.	Sh. Narender Singh	Late Mithoo Lal	12-04-1986	01-09-1993
9.	Sh. Rajender	Rattan Lal	16-04-1986	01-09-1993
10.	Smt. Guddi	W/o. Chander Bhan	06-07-1986	01-09-1993
11.	Smt. Keshro	W/o. Gurmeet	19-11-1986	24-07-1999
12.	Sh. Rajender	Late Bane Singh	23-03-1987	01-09-1993
13.	Sh. Mahender Singh	Jugti Ram	13-08-1987	01-09-1993
14.	Sh. Ishwar Dutt	Jag Ram	07-08-1987	01-09-1993
15.	Sh. Naresh Kumar	Rishol Singh	29-04-1988	01-09-1993

1	2	3	4	5
16.	Sh. Ram Avtar	Mool Chand	29-04-1988	01-09-1993
17.	Sh. Ram Chander	Late Amar Singh	08-08-1988	01-09-1993
18.	Sh. Radhey Shyam	Kashi Ram	13-07-1989	01-09-1993
19.	Sh. Sharvan Kumar	Chandra Ram	13-07-1989	24-07-1999
20.	Sh. Anil Kumar	Purusottam Das	22-01-1990	01-09-1993
21.	Sh. Naresh Kumar	Late Chandroo Singh	22-01-1990	24-07-1999
22.	Sh. Pali Ram	Channan Ram	07-09-1990	24-07-1999
23.	Sh. Deepak	Nand Lal	18-09-1990	01-01-1995
24.	Sh. Gurmeet	Late Ram Kishan	12-11-1990	01-09-1993
25.	Sh. Subhash Chand	Late Duli Chand	12-11-1990	01-09-1993
26.	Sh. Bhura Ram	Ram Karan	21-11-1990	01-09-1993
27.	Smt. Kamla Devi	W/o. Ram Chander	01-05-1991	09-09-1999
28.	Smt. Sheela Devi	W/o. Veer Singh	01-05-1991	09-09-1999
29.	Sh. Rajender	Late Bishamber Das		09-09-1999

That Bhartiya Krishi Karamchari Sangh is a registered Trade Union bearing its registration No. 2501 and registered by the Registrar of Trade Unions of Delhi and representing the supporting staff of Group D employees and daily rated workers of all the institutes under ICAR.

That the Central Institute for Cotton Research having its Hqrs. at Nagpur and also Regional Station at Sirsa and the above institute is the unit of ICAR. That hundreds of employees including scientists, technical staff, auxiliary, supporting staff (Group D employees) and daily rated workers etc. have been performing their duties in the Regional Station of the management, Sirsa (Haryana).

That Smt. Vidyawati and 28 others have been performing their duties as daily rated employees between the year 1972 to 1991 but their services have not been regularized by the management till date. The detailed particulars of the workmen have been already referred by Ministry of Labour as referred hereinabove in Para I.

That some of the workmen had filed their petition before Central Administrative Tribunal and the same were disposed of but Bhartiya Krishi Karamchari Sangh is raising the dispute under the Industrial Disputes Act, 1947 for their regularization as the management is indulging in unfair labour practice being a special Act on behalf of the workmen.

That the above management is connected with the research of cotton development in India and for this hundreds of workmen including scientists, technical staff, auxiliary support staff, administrative staff including clerks, stenographers, drivers were employed for this noble work by the above management and for that above employees have been performing their duties systematically for the research of cotton in India.

That the work connected with the above management is a permanent nature of job and the research and non regularization of services of the workmen connected in this dispute after completion of 90 days is an arbitrary action of the management.

That during 1958 to 1992 the above sub-station was attached with the IARI, Pusa, New Delhi and during the said period hundreds of daily rated workers employed in IARI, Pusa, New Delhi and their services were regularized within the completion of their two years services, but these workmen connected with the dispute were ignored by the high-handedness of the officers of the above management.

That the management with a view to employ workmen as casual or temporary and to continue them for years with the object of depriving the status and privilege of a permanent nature is unfair labour practice as per item 10 indicated in the Vth Schedule under Section 2(ra) of the ID Act, 1947 is as under :

> "(10) To employ workmen as "badlis" casuals or temporaries and continue them as such for years, with the object of depriving them of the status and privileges of permanent workmen."

That the full Bench of Hon'ble Supreme Court in the matter of Indian Petrochemicals Corporation Limited and another, Appellant Vs. Shramik Sena and others, respondent have held that the services of workmen are being regularized by the Court not as a matter of right of the workmen arising under any statute but with a view to eradicate unfair labour practice and inequity to undo social justice and as a measure of labour welfare but in this case, the management has been indulging unfair labour practice for many years.

That the above institute is one of the unit of Indian Council of Agriculture Research (ICAR) which is registered under the Societies Registration Act, 1860 and came into existence as a department of Government of India even though it was registered as a society.

That all the rules and regulations of the Central Government are applicable on the employees of institute affiliated to ICAR as per the policy of the management of CICR is primarily and exclusively a research organization and its main objective is to undertake research on various aspects of agricultural and animal sciences in the larger interest of the nation, so the management comes within the

definition of an industry and provisions of ID Act, 1947 are also applicable to them.

That the work of Central Institute of Cotton Research at regional station, Sirsa is of a regular nature of job and as per ICAR letter No. 20-22/69 - Agriculture Institute dated 29th June, 1970 for regularization of services of daily wages workers, they should be entitled to half of the continuous service paid from contingency w.e.f. 01-11-1961 onwards and up to the date of their regular appointment and the services would be counted for the purpose of retirement benefits. But in this case, the management has not regularized their services even after the Government of India, Ministry of personnel, Public Grievances and Pensions Department and Personnel & Training as per O.M. No.49014/2/86-Estt.(C) dated 7th June, 1988. The Central Government has reviewed the policy of recruitment of workers in view of the judgment of Hon'ble Supreme Court of India dated 17-01-1986 in writ petition filed by the Surinder Singh and Ors. Vs. Union of India and decided all casual workers should be paid at the rate of minimum of the pay scale plus D.A. and also decided that all the eligible casual workers would be adjusted against the regular post and also by creating additional posts for regularizing daily rated workers but in this case the management retained these workers years together and not even paid the minimum pay scale plus D.A. and allowances from their initial date of employment and not regularized their services and totally disregarded the said orders of the Government of India and continuing the unfair labour practice by way of exploiting the workmen and denying them regular and permanent status.

That the department of Personnel, Government of India, Ministry of personnel PG and Pensions, Department of Personnel and Training vide issuing another O.M. No. 51016/2/90-Estt.(C) dated 10th September, 1993 issued the policy for grant of temporary status and regularization of casual workers but this management also not fully implemented this scheme. But in this case the workmen are entitled to permanent status after completion of 90 days as the workmen connected with the dispute are industrial workers and the provisions of ID Act, 1947 are applicable on them. As per the said memorandum the government has allowed the additional benefits which are admissible to the casual worker working in industrial establishment in its para 6 of the order of O.M. dated 10th September, 1993 and the same is reproduced as under :—

> "6. No benefits other than those specified above will be admissible to casual labourers with temporary status. However, if any additional benefits are admissible to casual workers working in Industrial establishment in view of provisions of Industrial Disputes Act, they shall continue to be admissible to such casual labourers."

Copy of the above OM is enclosed as Annexure A & B with the statement of claim.

That this dispute is raised on behalf of workmen of the above management for demanding additional benefits under the above OM dated 10-09-1993 as the workmen are also covered under the Industrial Employment (Standing) Orders Act, 1946.

That the management carrying field experiments of the process relating to growing of cotton in the field and also connected with the beading, harvesting, spraying of insecticides and spraying water and irrigating plantation are carried as on an incidental operation to the main work of research so the provisions of following labour laws are applicable on them.

That the establishment is covered u/s 1 (4) (b) of the Plantation Labour Act, 1951 and same is reproduced as under :

> "1 (4)(b) xxx to any land used or intended to be used for growing any other plant, which admeasures 5(4) a hectares or more and in which fifteen or more persons are employed or were employed on any day of the preceding twelve month, if after obtaining the approval of the Central Government, the State Government, by notification in the Official Gazette, so directs.xx"

That the definition provided in 2(f) of Plantation Labour Act, 1951 is also reproduced :

> "(f). "Plantation" means any plantation to which this Act whether wholly or in part, applies and includes offices, hospitals, dispensaries, schools and any other premises used for any purpose connected with such plantation, but does not include any factory on the premises to which the provisions of the Factories Act, 1948 (63 of 1948) apply."

That the establishment of Plantation is covered as industrial or other establishment in Section 2 (iii) of Payment Wages Act, 1951 as under :

"2 (iii). "Plantation" has the meaning assigned to it in clause (f) of Section 2 of the Plantations Labour Act, 1951 (69 of 1951)."

That the industrial establishment of the management is also covered under Section 2 (e) (i) of Industrial Employment (Standing) Orders Act, 1946 and is reproduced as under :—

"2(e)(i)."Industrial Establishment" means xxx

(i). an industrial establishment as defined in clause (ii) of Section 2 of the Payment of Wages Act, 1936, or xx"

That the establishment under Plantations Act is covered under Section 25L (iii) under Chapter V - B of the ID Act, 1947 and same is reproduced as under :—

"25. Definitions - For the purpose of this Chapter.

(iii). A plantation as defined in clause (j) of sub-section (1) of Section 2 of Plantations Labour Act, 1951 (69 of 1951).

That as per the schedule 1 under the Industrial Employment (Standing) Orders Act, 1946 the workmen are classified as under :—

"2. Classification of workmen :—

(a). workmen shall be classified as :

(1) Permanent

(2) Probationers.

(3) Badlis.

(4) Temporary.

(5) Casual

(6) Apprentices.

(b). A "permanent" workman is a workman who has been engaged on a permanent basis and includes any person who has satisfactorily completed a probationary period of three months in the same or another occupation in the industrial establishment including breaks due to sickness, accident, leave, lock out, strike (not being an illegal strike) or involuntary closure of the establishment.

(c). A "probationer" is a workman who is provisionally employed to fill a permanent vacancy in a post and has not completed three months service therein. If a permanent employee is employed as a probationer in a new post he may, at anytime during the probationary period of three months be reverted to his previous permanent post.

(d). A "badli" is a workman who is appointed in the post of a permanent workman or probationer who is temporarily absent.

(e). A "temporary" workman is a workman who has engaged for work which is of an essentially temporary nature likely to be finished within a limited period.

(f). A "casual" workman is a workman whose employment is of a casual nature.

(g). A "apprentice" is a learner who is paid an allowance during the period of his training.

That as per the classification prescribed as per model standing orders under the Industrial Employment (Standing) Orders Acts and Rules 1946 all the workmen connected with the dispute are permanent workmen after completion of 90 days but the management only with a view to deny the status of regular and permanent workmen have not granted permanent status to these workmen after the completion of 90 days and also denied equal pay for equal work, as per OM No. 49014/2/86-Estt.(C) dated 7th June, 1988 and also not granted the temporary status to some of the workmen w.e.f. 01-09-1993 which is a clear cut violation of the provisions of model standing orders made under the Industrial Employment (Standing) Orders Acts and two office memorandum issued by the Department of Personnel, Government of India, Ministry of Personnel PG and Pension, Department of Personnel and Training as referred hereinabove.

That the workmen connected with the dispute are entitled to be made permanent workmen after 90 days of employment with the above management as prescribed under the model standing orders in respect of industrial establishment not being industrial establishment in coal mines.

That the workmen have been performing their duties as indicated in Annexure referred with schedule of the reference order of Ministry of Labour continuously as per the definition under Section 25B of the ID Act, 1947.

That the management has arbitrarily regularized some of the junior workers against the deterrent interest of the workmen connected with the dispute for example while doing so the discrimination was made between the workmen and workmen because the juniors were made regular over the senior workmen.

That one of workman Shri Darshan Lal who was employed on daily wages/casual worker in the month of August, 1984 and Bahadur Singh who was employed as daily rated/casual worker in the year 1984 and their services were regularized w.e.f. 01-07-1991 as Group D employees in the supporting staff Grade-I so this is the arbitrary action of the management while selecting the junior workmen against their seniors as they all are belonging to the unskilled category.

That Shri Ashok Kumar and Ramesh Kumar who were also junior to other workers and their services were also regularized w.e.f. 29-05-1989 and 16-06-1990.

That the workmen connected with the dispute have been performing their duties as indicated in column 4 referred with the schedule as indicated in Para I of the statement of claim, the management arbitrarily granted temporary status as indicated in column 5 of the said schedule but these workmen are entitled to be regularized/ permanent status after completion of 90 days and equal pay for equal work from the date of their initial employment, but the management with a view to exploit the work force their services have not been regularized so far and also deny equal pay for equal work to their initial date of employment.

That the workmen have completed more than 240 days of service and as per the judgment of the Hon'ble Supreme Court, Sunday and Holidays and the breaks have to be counted for the purpose of continuous service under the definition of Section 25B of the ID Act, 1947. In support of the stand of workmen a similar case as decided by the Hon'ble Supreme Court in H.D. Singh *Vs.* Reserve Bank of India and others (1985) Suppl. 2 SCR-842 is reproduced as under :—

"that the striking off the name of the workmen from the rolls by the employer amounts to termination of service and such termination is retrenchment within the meaning of Section 2 (oo) of the ID Act, 1947 if affected in violation of the mandatory provisions contained in Section 25 and invalid and also unfair labour practice as indicated in item 10

of Vth Schedule to the Industrial Disputes Act contained in the list of unfair labour practice as defined in Section 2 (ra), item 10. So the Hon'ble Court not only reinstated the daily rated workers but also granted regular status to set aside the unfair labour practice."

In another cases, the Hon'ble Supreme Court in the matter of Mohan Lal *Vs.* Management of M/s. Bharat Electronics Limited (1981) 3 SCR—518 have also settled the definition of continuous services as per Section 25B of the ID Act, 1947. The Hon'ble Supreme Court also interpreted sub-section 1 and 2 of Section 25B which is reproduced as under :—

"Before a workman can complain of retrenchment being not in consonance with Section 25F, he has to show that he has been in continuous service for not less than one year under that employer who has retrenched him from service. Section 25B is the dictionary clause for the expression "continuous". It reads as under :—

"25-B (1). A workman shall be paid to be in continuous service for a period if he is, for that period in uninterrupted service, including service which may be interrupted on account of sickness or authorized leave or an accident or a strike which is not illegal, or a lock out or a cessation of work which is not due to any fault on the part of the workmen;

(2) Where a workman is not in continuous service within the meaning of clause (1) for a period of one year or six months, he shall be deemed to be in continuous service under an employer :—

(a) For a period of one year ; if the workman, during a period of twelve calendar months preceding the date with reference to which calculation is to be made, has actually worked under the employer for not less than :—

(i) One hundred and ninety days in the case of a workman employed below ground in a mine; and

(ii) Two hundred and forty days, in any other case;

* * *

"Mr. Markendaya contended that clause (1) and (2) of Seciton 25B provide for two different contingencies and that none of the clauses is satisfied by the appellant. He contended that sub section (1) provides for uninterrupted service and sub-section (2) comprehended a case where the workman is not in continuous service. The language employed in sub-section (1) and (2) introduce a deeming fiction as to in what circumstances a workman could be said to be in continuous service for the purposes of Chapter-V A. Sub-section (1) provides a deeming fiction in that where a workman is in service for a certain period he shall be deemed to be in continuous service for that period even if service is interruped on account of sickness or authorized leave or an accident or a strike which is not illegal or a lock out or a cessation of work which is not due to any fault on the part of the workman. Situations such as sickness, authorized leave, an accident, a strike not illegal, a lockout or a cessation of work would if so facto interrupt a service. These interruptions have to be ignored to treat the workman in uninterrupted service and such service interrupted on account of the aforementioned causes which would be deemed to be uninterrupted would be continuous service for a period for which the workman has been in service. In industrial employment of for that matter in any service, sickness, authorized leave, an accident, a strike which is illegal, a lockout and a cessation of work not due to any fault on the part of the workman, are known hazards and these were bound to be interruptions on that account. Sub-seciton (1) mandates that interruptions therein indicated are to be ignored meaning thereby that on account of such cessation an interrupted service shall be deemed to be uninterrupted and such uninterrupted service shall for the purposes of Chapter-V A be deemed to be continuous service. That is only one part of the fiction.

Sub-section (2) incorporates another deeming fiction for an entirely different situation. It comprehends a situation where a workman is not a continuous service within the meaning of sub-section (1) for a period of one year or six months, he shall be deemed to in continuous service under an employer for a period of one year or six months, as the case may be, if the workman during the period of 12 calendar months just preceding the date with reference to which calculation is to be made, has actually worked under that employer for not less than 240 days. Sub-section (2) specifically comprehends a situation where a workman is not in continuous service as per the deeming fiction indicating in sub-section (1) for a period of one year or six months. In such a case he is deemed to be in continuous service for a period of one year, if he satisfies the conditions of clause (1) of sub-section (2). The conditions is to be made in case of retrenchment the date of retrenchment, if in a period of 12 calendar months just preceding such date the workman has rendered service for a period of 240 days, he shall be deemed to be in cotinuous service for a period of one year for the purposes of Chapter-V A. It is not necessary for the purposes of sub-section (2) (a) that the workman should be in service for a period of one year. If he is in service for a period of one year and that if that service is continuous service within the meaning of sub-seciton (1) his case would be governed by sub-section (1) and his case need not be covered by sub-section (2). Sub-section (2) envisages a situation not govemed by sub-seciton (1). And sub-section (2) provides for a fiction to treat a workman in continuous service for a period of one year despite the fact that he has not rendered uninterrupted service for a period of one year but he has rendered service for a period of 240 days during the period of 12 calendar months counting backwards and just preceding the relevant date being the date of retrenchment.

That all the workmen connected with the dispute have been performing their duties continuously from the

date of initial employment so all of them are entitled for regularization and permanent status after completion of 90 days service and equal pay for equal work from the date of their initial employment as indicated in Para-I of the statement of claim.

That the action of the management of institute not granting the permanent status after completion of 90 days service to the workers concerned and not regularizing the services of the workmen from the date of their initial employment and also not granting equal pay for equal work is illegal as well as unjustified.

That the Managing Committee of Bhartiya Krishi Karamchari Sangh (Regd.) in its meeting held on 1-7-2001 has decided to raise the dispute of 29 workers connected in this dispute for grant of permanent status, regularization after completion of 90 days service and equal pay for equal work from the date of their initial employment and the committee further authorized B. K. Prasad, Chairman of the Sangh to sign and verify the statement of claim as per rule 4 of the Industrial Disputes (Central) Rules, 1957. Copy of the said resolution is annexed as Annexure-C.

That this Hon'ble Tribunal has its jurisdiction and power to regularize, classify by grades etc. as per provided under item 7 of 3rd Schedule U/s 7A of the ID Act, 1947.

In view of the above, this Hon'ble Tribunal may kindly pass :—

(a) award to grant the permanent status after completion of 90 days services to all the workers concerned in this dispute as the details were referred in Para-1 and also award regularization of the services of the workmen from the date of their initial employment and also award equal pay for equal work from the date of their employment.

(b) any other order/award as this Hon'ble Tribunal may deem fit and proper in the interest of justice.

The management has filed written statement. In the written statement it has been stated that the Ministry of Labour has wrongly referred the dispute for adjudication of the Ld. Labour Court as for the purpose of regularization of services or for grant of equal wages to an employee the jurisdiction lies with the Central Administrative Tribunal, Chandigarh Bench or under Article 226 the writ jurisdiction of Hon'ble Punjab and Haryana High Court can be invoked and hence the present reference is liable to be dismissed summarily. It is a settled that when an employee is governed by service code then the Labour Court has no jurisdiction.

That the present dispute is not an industrial dispute and as such the same is not maintainble. The Central Institute for Cotton Research is a unit of Indian Council of Agricultural Research (ICAR) a society registration Act, 1860 and as such is not an industry as defined under Industrial Disputes Act and as such this Hon'ble Authority has no jurisdiction to entertain the alleged industrial dispute. The (ICAR) is engaged purely in research work on cotton crop only, which is a seasonal cash crop of hardly six months duration and as such the employee are engaged as for the requirement of the works an not on regular basis and the work is not of the regular nature and as such the present dispute is not an industrial dispute and the same is liable to be rejected.

That the claim statement on behalf of Bhartiya Krishi Karamchari Sangh is neither a recognized Union nor is authorized to raise the present dispute and as such the Union has no *locus standi* to raise the dispute on behalf of the workmen moreover, when the facts of each workman are different and they had to prove the number of days they have worked by cogent evidence and it is a settled law that Ld. Labour Court cannot decide such question jointly on behalf of the Union and different claim statements are maintainable for each workman.

It is stated that though the Ministry of Labour has referred the dispute however, as stated in the preliminary objection the Ld. Tribunal has no jurisdiction for the purpose of regularization or for granting equal pay for equal wages.

That Bhartiya Krishi Karamchari Sangh is neither a recognized Union nor is authorized to raise the present dispute and as such the Union has no *locus standi* to raise the dispute on behalf of the workmen. The said workmen have never informed the management regarding their membership of the Union. The said Bhartiya Krishi Karamchari Sangh is not a representative of recognized Union either by the Central Institute for Cotton Research. Para 1 of the statement of claim is totally false, wrong and denied. There is an internal Institute Joint Staff Council, which is representing all sets of employees, and the grievances are resolved through that Council.

That it is denied that hundreds of employees are working with the management. There are only 5 Scientists, 8 Technical Staff, 8 Administrative Staff and 20 to 25 Supporting Staff and Auxiliary Staff four (4) Research Associates and 31 temporary status labourers are working at Regional Station, Sirsa of the management.

That it is specifically denied that Smt. Vidyawati and 28 others have been performing their duties from 1972 to 1991. As has been stated above that the Central Institute for Cotton Research is a Research Institute and is purely dedicated to the research work on cotton crop, which is a seasonal cash crop of hardly 6 months duration and the employees are engaged during that 6 months period as per exigencies of work.

That the statement of claim is admitted to the extent that some of the workmen have filed their petition before the Central Administrative Tribunal , rest of the paras are false, wrong and denied. The Union has no *locus standi* to espouse the cause of the employees under the Industrial Disputes Act, 1947 for their regularization. Moreover, the

said employees are not the members of the said union and there is no espousal of the said workmen by the said union. It is specifically denied that the management is indulging in unfair labour practices.

That the statement of claim is admitted to the extent that the management is a Research Institute and is working for the research on cotton crop only and the rest of the para is totally false, wrong and denied and the position has been further explained in the aforesaid paras.

That the statement of claim is totally false, wrong and denied. It is specifically denied that the management is having work of permanent nature of job and the research work is going on in 12 months a year. It is denied that the research work is going on for 12 months a year but it is stated that the services of employees such as who have raised the dispute are not required for 12 months in a year. The services are required during the cotton crop season, which is hardly of 6 months duration. The preferences is given to the employees at the time of next engagement in the cotton crop season who have already worked and as such the employees are engaged a fresh in each season of cotton crop which is hardly of 6 months duration.

That the statement of claim is false, wrong and denied. The Central Institute for Cotton Research was a sub-station of IARI up to 1985 and thereafter it was attached to Central Institute for Cotton Research, Nagpur and thereafter it has nothing to do with IARI.

That the statement of claim is false, wrong and denied. It is specifically denied that the management employs workmen as casual or temporary and to continue them for years with the object of depriving them the status and privilege of permanent nature. As has been stated above, the employees are engaged during the cotton crop season, which is hardly of 6 months duration to manual labour, etc. and thereafter they stand disengaged. They are free to join other jobs after the season is over.

That the statement of claim is false, wrong and denied. It is submitted that the management is a society registered under Societies Registration Act, 1860.

That the statement of claim is denied. It is submitted that as per Bye Laws 30 (a) of ICAR Rules and Bye Laws except in regard to matters for which specific provision has been made in the Rules, Bye Laws regulation or orders made or issued by the Society. The service and financial rules framed by the Government of India and such other rules framed by the Government of India from time to time shall apply mutatis--mutandis to the employees of the society in regard to matters concerning their service conditions. It is denied that the management comes within the definition of an industry and the provision of ID Act, 1947 are applicable to it.

That the statement of claim is totally false, wrong and denied and the workmen be put to strict proof. The temporary status was granted to the employees if and when they are found eligible for the same as per the relevant instructions of DOP&T. Temporary status labourers so appointed got all the monetary benefits as applicable to them as per Government of India (DOP&T Guidelines).

That the statement of claim is misconceived, false, wrong and denied. The present dispute is not an industrial dispute for the reasons mentioned above and the said union has no locus standi to raise the present dispute. It is denied that the workmen are industrial workmen and are covered under the Industrial Employment (Standing) Orders Act, 1945.

That the statement of claim is misconceived, false, wrong and denied and the position has been explained in the above paras. That the statement of claim are misconceived, false, wrong and denied. It is denied that the establishment is covered under the Plantation Labour Act, 1951. Payment of Wages Act, 1951 and Industrial Employment (Standing) Orders Act, 1946 and Industrial Disputes Act, 1947.

That the statement of claim is misconceived, false, wrong and denied and the position has been explained in the above paras. It is denied that the seasonal workmen employed by institutes on seasonal basis are not entitled to be inducted as permanent employees of the institute for whom there are separate eligibility/rules/service code is applicable.

That the statement of claim is totally false, wrong and denied. It is denied that the workmen have been performing their duties as per Annexure "A" attached with the statement of claim continuously as per the definition provided under section 25-B of the Industrial Disputes Act, 1947. As has been stated above, the Central Institute for Cotton Research is purely a Research Institute and is engaged in the industrial crop research only, which is hardly of 6 months duration in a year. The Central Institute for Cotton Research is working under the ICAR and is not an industrial establishment.

That the statement of claim is false, wrong and denied. The persons who have been selected or regularized are done strictly as per the instructions/rules of Indian Council of Agricultural Research/DOP &T, which are applicable to the management. It is denied that the management has arbitrarily regularized some of the junior workers against the deterrent interest of the workman connected with the alleged dispute. It is denied that there was any discrimination made between the seniors and juniors.

That the statement of claim is false, wrong and denied. The selection/regularization has been made strictly as per the rules/instruction applicable.

That the statement of claim is false, wrong and denied. The temporary status has been granted as per the rules. It is denied that the workmen are entitled to regularization in their respective services. There are no regular or sanctioned posts and as such the services of the workmen cannot be regularized. It is well settled principle of law that the

regularization can be done only when regularly sanctioned posts are available.

That the statement of claim is false, wrong and denied and the judgement as referred in para under reply have no application in the facts and circumstances of the present case.

That the statement of claim is false, wrong and denied. The position has been explained in the above paras. It is specifically denied that the workmen as mentioned in Annexure "A" have been performing their duties for 8 hours a day and 6 days a week. It is further denied that the workmen are performing similar duties, which are being performed by regular employees in the category of supporting staff. There is a qualitative difference of reality and responsibility.

That the contents of this are wrong and denied the seasonal workmen employed by institutes on seasonal basis are not entitled to be inducted as permanent employees of the institute for whom there are separate eligibility/rules/service code is applicable.

That in view of the preliminary objections this Hon'ble Tribunal has no jurisdiction to answer the reference as sent by the Ministry of Labour, Government of India. It is, therefore, respectfully prayed that in view of the preliminary submissions the reference is devoid of any merits and liable to be rejected.

The workmen applicants have filed rejoinder. In the rejoinder they have reiterated the averments of their claim statement and have denied most of the paras of the written statement. The management has also denied most of the paras of the claim statement.

Evidence of both the parties has been taken.

Heard arguments from both the sides and perused the papers on the record.

From perusal of the pleadings of the parties the following issues arise for determination :—

1. Whether the workmen are permanent employees, probationers, badlis, fixed term employment, temporary, casuals and apprentices?
2. Whether the Tribunal/Court has jurisdiction to decide this case?
3. Whether the dispute has been properly espoused?
4. Whether the management is committing unfair labour practice?
5. Whether the workmen deserve regularization?

Issue No. 1.

It has submitted from the side of the management that the workers are seasonal workers. They are engaged on the basis of need and exigencies. They are casual labourers. The management witness has admitted in his cross examination as under :—

"It is correct that throughout the year research work is carried out and corps other than cotton are also cultivated for the purpose of research. It is correct that surplus crops are being disposed of after completing the research work. Our institute has land about 55 acres."

The above admission of the management witness shows that throughout the year research work is carried out and crops other than cotton are cultivated for the purpose of research. So the workmen are engaged throughout the year and they are not seasonal workers.

This witness has further admitted :—

"It is correct that instructions issued by Ministry of Personnel, Public Grievances and Pensions (Department of Personal and Training), GOI is related to including daily rated workers are applicable on the establishment of the management."

The management witness has admitted that the instructions issued by the Ministry of Personnel etc. are applicable on daily rated workers also. This witness has also admitted that the date mentioned in Annexure A attached with the reference order dated 11-10-2004 by the Ministry of Labour is also correct.

The management witness has further admitted :—

"It is also correct that the duty hours of the daily rated workers connected with the dispute is 8 hours a day six days in a week. Whenever need arises the daily rated workers are called on 2nd Saturdays also."

The management witness has further admitted :—

"It is correct that the joint counsel only represent/ redress the grievances of the regular staff of the institute. It is correct that the supporting staff belongs to the Group-D employee. It is correct that the duty hours of the daily rated workers are more than supporting staff working as regular employee in the Group-D category of the management."

This indicates that the RMR workers perform 8 hours duty whereas Group-D employees perform 6 hours duty. This witness has not stated anywhere that the workmen are seasonal workers or casual workers. They perform duties on every 6 days of a week and they work for 8 hours whereas supporting staff work for 6 hours. This witness has also admitted that the duty hours of daily rated workers are more than supporting staff working as regular employees in Group-D category of the management.

Supporting staff are Class-D employees selected from the daily rated workers. Perhaps there is no policy of recruitment of Class-D employees. Recruitment of Class-D employees are supporting staff. Daily rated workers are regularized and they are included in supporting staff or Class-D group. This establishment is covered u/s 14 (b) of the Plantation Labour Act and Employment (Standing) Orders Act, 1946. Categories of the workmen have been defined in the Industrial Employment (Standing) Orders Act, 1946. So these workmen are temporary employees and they have been given regular status. They are not seasonal

workers. They remained engaged all the year round and perform duties for 8 hours. This issued is decided accordingly.

Issue No. 2.

It is submitted from the side of the workmen that the contention of the managemnt that the appropriate forum is only Central Administrative Tribunal (CAT) and not Labour Court is not in accordance with law. As per the Amendment Act, 1986 the amendment is inserted in Section 28 of the Administrative Tribunal Act, 1985 and these amendments have been substituted w.e.f. 01-10-1985. The provision of the said amended Section 28 is reproduced as under :—

"28. Exclusion of jurisdiction of courts except the Supreme Court under Article 136 of the Constitution and from the date from which any jurisdiction, power and authority becomes exercisable under this Act by a Tribunal in relation to recruitment and matters concerning recruitment to any service or post or service matters concerning members of any service or persons appointed to any service or post, no court except—

(a) the Superme Court, or

(b) any Industrial Tribunal, Labour Court or other authority constituted under the Industrial Disputes Act, 1947 or any other corresponding law for the time being in force shall have or be entitled to exercise any jurisdiction, powers or authority in relation to such recruitment or matters concerning such recruitment or such service matters."

In view of the above stand of the management that the workmen can only approach the Central Administrative Tribunal is not tenable. As per the provision of CAT the workmen may approach either to CAT or Industrial or Labour Court.

Section 14 runs as under :—

14. Jurisdiction, powers and authority of the Central Administrative Tribunal—

(1) Save as otherwise expressly provided in this Act, the Central Administrative Tribunal shall exercise, on and from the appointed day, all the jurisdictions, powers and authority exercisable immediately before that day by all courts (except the Supreme Court) in relation to—

(a) recruitment, and matters concerning recruitment, to any All India Service or to any civil service of the Union or a civil post under the Union or to a post connected with defence or in the defence services, being in either case, a post filled by a civilian;

(b) all service matters concerning—

(i) a member of any All India Service; or

(ii) a person [not being a member of an All - India Service or a person referred to in clause (c)] appointed to any civil service of the Union or any civil post under the Union; or.

(iii) a civilian [not being a member of an All-India Service or a person referred to in clause (c)] appointed to any defence services or a post connected with defence.

Jurisdiction is always conferred by statute Section 14 of the CAT 1985 confers jurisdiction on Central Administrative Tribunal. The CAT has jurisdiction in regard to service matters of All India Service or any Civil Services of the Union or a Civil Post under the Union or to a post connected with defence or any defence service. So the jurisdiction of the CAT is confined to the service matters of All India Services or any Civil Services of the Union or any Civil Post under the Union or services rendered in defence. The CAT has absolutely no jurisdiction to entertain the cases of industrial workers. The workmen are undoubtedly industrial workers.

The management witness has admitted in his cross examination as under:

"It is correct that throughout the year research work is carried out and crops other than cotton are also cultivated for the purpose of research. It is correct that surplus crops are being disposed of after completing the research work. Our institute has land about 55 acres."

This statement shows that the surplus Crops are being disposed of after completing research work. Thus, this Undertaking is engaged in business of selling crops. It cannot be said that there is no motive of gains. The respondents are very much industry in view of their admission.

It was submitted that the activities of the Unit under ICAR is very much covered under the definition of "Industry" of the Industrial Disputes Act, 1947. It is further submitted that Seven Bench of Hon'ble Supreme Court in the matter of Bangalore Water Supply& Sewerage Board etc. Vs. R. Rajappa & others [(1978) 3 SCR - 207] has held at page 271 that the Research Institute is an Industry within the ambit of Industrial Disputes Act, 1947. The operative portion of the judgment is reproduced as under :

"Does research involve collaboration between employer and employee? It does. The employer is the institution; the employees are the scientists, para-scientists and other personnel. Is scientific research service? Undoubtedly it is. Its discoveries are valuable contributions to the wealth of the nation. Such discoveries may be sold for a heavy price in the industrial or other markets. Technology has to be paid for and technological inventions and innovations may be patented and sold. In our scientific and technological age nothing has more cash value, as intangible goods and invaluable services, than discoveries. For instance, the discoveries of Thomas Alva Edison made him

fabulously rich. It has been said that his brain had the highest cash value in history for he made in the world vibrate with the miraculous discovery of recorded sound. Unlike most inventors, he did not have to wait to get the reward in heaven; he received it munificently on this gratified and grateful earth, thanks to conversion of his inventions into money a plenty. Research benefits industry. Even though a research institute may be a separate entity disconnected from the many industries which funded the institute itself, it can be regarded as an organization, propelled by systematic activity, modelled on co-operation between employer and employee and calculated to throw up discoveries and inventions and useful solutions which benefit individual industries and the nation in terms of goods and services and wealth. It follows the research institutes, albeit run without profit motive, are industries."

It was submitted from the side of the workman that the judgment of the Constitution Bench (1978) 3 SCR 207 still holds the field so far as definition of 2 J of ID is concerned. The Hon'ble Apex Court in that judgment has laid down triple tests and in the light of these tests it is to be ascertained whether the respondent/management is an Industry or not.

It has been held in Bangalore Water Supply that in an Industry there should be systematic activity and it should be organized by cooperation between the employer and the employees and it should be for production and/or distribution of goods and service calculated to satisfy human wants and wishes. It has been held that absence of profit motive or gainful objective is irrelevant. The true focus is functional and the decisive test is the nature of the activity with special emphasis on the employer and employee relations. If an organization is not carrying on trade and business, it is not beyond the purview of Industrial activities.

(1978) 3 SCR - Bangalore Water Supply case is a Constitution Bench judgment. It is still holding the field in the matter of adjudication of this point.

It has been held in this case that Section 2(j) of the Industrial Disputes Act, 1947 which defines industry contains words of wide import as wide as the legislature could have possibly made them. The problem of what limitations could and should be reasonably read in interpreting the wide words used in section 2(j) is far too policy oriented to be satisfactorily settled by judicial decisions. The Parliament must step in and legislate in a manner which will leave no doubt as to its intention. That alone can afford a satisfactory solution to the question which has agitated and perplexed the judiciary at all levels.

The Hon'ble Apex Court has laid down triple tests to ascertain whether a particular unit or undertaking is an industry or not. It has been held in this case that where (i) systematic activity, (ii) organized by cooperation between employer and employee (the direct and substantial element is chimerical) (iii) for the production and/or distribution of goods and services calculated to satisfy human wants and wishes (not spiritual or religious, but inclusive of material things or services geared to celestial bliss e.g. making on a large scale prasad or food).

(b) Absence of profit motive or gainful objective is irrelevant be the venture in the public, joint, private or other sector.

(c) The true focus is functional and the decisive test is the nature of the activity with special emphasis on the employer employee relations.

(d) If the organization is a trade or business it does not cease to be one because of philanthropy animating the undertaking.

Although section 2 (j) uses words of the widest amplitude in its two limbs, their meaning cannot be magnified to over each itself.

The Hon'ble Apex Court has laid down further the dominant nature test. It has been held as follows :

"Where a complex of activities some of which qualify for exemption, others not involves employees on the total undertaking some of whom are not workmen as in the University of Delhi case or some departments are not productive of goods and services if isolated, even then the predominant nature of the services and the integrated nature of the departments as explained in the Corporation of Nagpur will be the true test. The whole undertaking will be industry although those who are not workmen by definition may not benefit by the status.

Notwithstanding the previous clauses, sovereign functions, strictly understood (alone), qualify for exemption not the welfare activities of economic adventures undertaken by government or statutory bodies.

Even in departments discharging sovereign functions if there are units which are industries and they are substantially severable then they can be considered to come within section 2(j).

The respondent's unit is engaged not in a sovereign function. It has been held in the above case that even arsenal or artillery department is an industry. Industry is decided on the nature of work it is performing.

From perusal of the records it becomes quite evident that the respondent/management is engaged in systematic human activities. The respondents are not discharging duties for gains but gainful objective is irrelevant in deciding whether an undertaking is an industry or not. In case activities of the respondents are considered in the crucible of the triple tests, respondent is obviously and definitely an industry.

It has been held in the Constitution Bench Judgment Steel Authority of India that the CGIT will have jurisdiction in service matters of the Undertakings run under the authority of the Central Government and are controlled by the Central Government. The respondents are undertaking of the Central Government and this Tribunal alone has jurisdiction to adjudicate this case in view of this Constitution Bench Judgment. This Tribunal has jurisdiction to decide this case. This issue is decided accordingly.

Issue No. 3

It was submitted from the side of the workmen that Bhartiya Krishi Karamchari Sangh is a registered Trade Union bearing its Registration No. 2501 and registered by the Registrar of Trade Unions of Delhi and representing the supporting staff of group "D" employees and daily rated workers of all the institutes under ICAR has raised the above dispute on behalf of the workmen connected with the dispute.

It is further submitted from the side of the management that Bhartiya Krishi Karamchari Sangh is neither a recognized union nor is authorized to raise the present dispute and as such the union has no locus standi to raise the dispute.

It was submitted from the side of the workmen that the Trade union i.e. Bhartiya Krishi Karamchari Sangh is a registered Trade Union under Indian Trade Union Act, 1926 and the workmen are the members of the said union, so they are authorized to raise the dispute before the Conciliation Officer. Registration certificate is annexed as Annexure - G. The union is authorized to raise this dispute before this Hon'ble Tribunal and the statement of claim is maintainable under Rule 4 of the Industrial Disputes (Central) Rules 1957.

It is proved that the Bhartiya Krishi Karamchari Sangh is a registered Trade Union representing the workmen connected with the dispute. The evidence adduced by workman witness Shri Naresh Kumar who is the Branch President of Bhartiya Krishi Karamchari Sangh and also one of the workman connected with the dispute which also proves the sponsored ship/espousal.

That the dispute relating to collectively or individually except the cases of the termination, the union under section 2(k) of the ID Act, 1947 is competent to raise their disputes as per Rule 4 (b) of the ID Act (Central) Rules 1957. The operative portion of 2(k) of the ID Act, 1947 is reproduced as under :

"2(k). "Industrial Dispute" means any dispute or difference between employers and employers, or between employers and workmen, or between workmen and workmen, which is connected with the employment or non-employment or the terms of employment or with the conditions of labour, of any persons."

There is no particular form prescribed to effect such espousal. The Registered Union can espouse or sponsor the cause of the individual workman/collective dispute or workmen.

It was submitted from the side of the respondents that there is no proper espousal of the case. There is no proof that the fellow workmen espoused the individual cause. In the instant case espousal is from Bhartiya Krishi Karamchari Union. This Bhartiya Krishi Karamchari Union is not a recognized union of the respondents.

My attention was drawn to 1961 Vol. II LLJ Page 436. The Hon'ble Apex Court no doubt has held that individual disputes cannot become industrial disputes in the absence of proper espousal. It has been further held by the Hon'ble Apex Court that in the absence of espousal the reference of the dispute will not assume the character of industrial dispute within the meaning of Section 2 K of the ID Act.

The law laid down by the Apex Court is not applicable in the facts and circumstances of the present case as Section 2 (A) has been inserted by Act No. 35 of 1965 for S-3 w. e. f. 1-12-1965. The ratio decision of the Hon'ble Apex Court relates back to 1965. Sections 2 k, 2 S and 10 of the ID Act, 1947 has been referred to in the judgment cited above. By that time a new Section 2 (A) has not been inserted by the legislature in the ID Act, 1947. The plea of espousal is invariably taken in every case by the respondents. There is no need of espousal in individual case in view of Section 2(A) which reads as hereunder :—

> "Dismissal etc. of an individual workman to be deemed to be industrial dispute." In view of the insertion of Section 2 (A) an individual dispute shall be deemed to be an industrial dispute."

No espousal for individual dispute is required. The plea of espousal should not have been taken by the respondents in view of newly inserted Section 2 (A) in the ID Act, 1947.

In the facts and circumstances the law cited by the respondents is not genuine in view of insertion of Section 2 (A) and in view of the facts and circumstances of the instant case. The law cited by the respondents on this plea of espousal is not applicable in the instant case. The Union is a recognized one and the workmen are the members of this Union.

The management witness has admitted that the dispute has been raised by the workmen through Bhartiya Krishi Karamchari Union. It is a registered trade union. The dispute is an individual industrial dispute and it is covered u/s 2 A of the ID Act, 1947. It has been properly espoused by a registered trade union. This issue is decided accordingly.

Issue No. 4

It was further submitted that Section 25 T provides that the management should not indulge in unfair labour practice. Section 25 U provides that a person who commits any unfair labour practice will be punishable with imprisonment for a term which may extend to six months or with fine, which may extend to Rs.1000 or with both. The intention of the legislature in enacting 25 T & 25 U is obvious. The legislature wanted that in case Casual and Badlis are engaged for a long period, it amounts to unfair labour practice. There is punitive clause for committing unfair labour practice.

It was submitted from the side of the workman that Vth Schedule of the ID Act specifies some practices as unfair labour practice. The Vth Schedule clause 10 provides the criteria for ascertaining unfair labour practice. It is extracted as hereunder :—

> "To employ workman as Badlis, Casuals or temporaries and to continue them as such for years with the object of depriving them of the status and privilege of a permanent workman."

Clause 10 of the Vth Schedule stipulates that in case the workmen are employed as Casuals, Badlis or Temporary and they are continued as such for years, it will amount to unfair labour practice. In the instant case the workman has been continued as casual and temporary for 7 years. It establishes to the hilt that the respondent management has committed unfair labour practice. The workman has been engaged for 7 years as casual and temporary and thereafter he has been removed. He has not been paid retrenchment compensation.

It was submitted that Section 25 F, G, T, U and Clause 10 of the Vth Schedule of the ID Act have been deliberately violated.

The management is committing unfair labour practice in as much as the workmen are kept as temporaries for years. This issue is decided accordingly.

Issue No. 5

It was submitted from the side of the workmen that in Constitution Bench Judgment 2006 (4) Scale a direction has been given to regularize the workmen who have worked for more than 10 years subject to availability of the post. From perusal of the chart of the workmen it becomes quite obvious that most of the workmen have been working from 1985-86 and some have been working prior to 1985-86. The workmen have performed 20 years or more than 20 years service. Some of the workmen are on the verge of superannuation. Majority of the workmen have been given regular status from 1993. In such circumstances in case they are not regularized they will be superannuated as daily rated workers. ICAR is a state under Article 12 of the Constitution of India and it is bound to follow the constitutional mandates. Article 39 (d) of the Constitution is as under :

"Article 39.

Art.39. The State shall, in particular, direct its policy towards securing—

(a) that the citizens, men and women equally, have the right to an adequate means of livelihood;

(b) that the ownership and control of the material resources of the community are so distributed as best to subserve the common good;

(c) that the operation of the economic system does not result in the concentration of wealth and means of production to the common detriment;

(d) that there is equal pay for equal work for both men and women;

(e) that the health and strength of workers, men and women, and the tender age of children are not abused and that citizens are not forced by economic necessity to enter avocations unsuited to their age or strength."

"That 39 of the Constitution is directory in nature. It comes under the directive principles of state policy and it has been enshrined therein that every state will endeavor to give employment to its citizens."

These workmen have been working for 20-25 years but no attempt has been made to regularize their service. Endeavor of giving employment does not mean employment of daily rated workers. Even in the Constitution Bench Judgment the Government has been directed to regularize the services of the workmen who have worked for more than 10 years. The Government has issued direction *vide* office memorandum dated 7th June, 1988 to create additional posts for regularizing the services of daily rated employees working under the different department of Government of India. MW1 has admitted that instructions were issued by the establishment of the management but no posts have been created in the light of directions of 7th June, 1988. Most of the workmen have been working prior to 1988 and only a few have been working from and after 1988, thus all the workers should have been regularized as they have been working for more than 10 years. Some may be on the verge of superannuation.

In the facts and circumstances of the case the workmen deserve regularization after 10 years of their initial engagement and they also deserve equal pay for equal work as they have been performing their duties more than supporting staff. They are not regular employees but more work than the regular employee are taken from them, so in view of the judgment of the Surinder Singh's case the workmen are entitled to equal pay for equal work at least from the date of their regularization. This issue is decided accordingly.

The reference is replied thus :—

> The action of the management of Institute of Cotton Research, Sirsa (Haryana) in not granting the permanent status after completion of 90 days service to the workers concerned (list of 29 workers enclosed) and not regularizing the services of the workmen from the date of their initial appointment and not granting equal pay for equal work is neither legal nor just. The present workmen are entitled to regularization and equal pay for equal work after 10 years of their initial engagement as mentioned in the chart annexed with the reference within two months from the date of publication of the award.

Award is given accordingly.

Dated : 29-01-2007.

R. N. RAI, Presiding Officer

नई दिल्ली, 6 फरवरी, 2007

का.आ. 643.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मेसर्स डराबशॉ बी. कुरसेटजी संस (गुज.) प्रा. लि. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, नं. 1, मुम्बई के पंचाट (संदर्भ संख्या 66/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 5-2-2007 को प्राप्त हुआ था ।

[सं. एल-31011/10/2003-आई आर (बी-II)]

राजिन्द्र कुमार, डेस्क अधिकारी

New Delhi, the 6th February, 2007

S.O. 643.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 66/2004) of the Central Government Industrial Tribunal-cum-Labour Court No. 1, Mumbai as shown in the Annexure, in the Industrial Dispute between the management of M/s Darabshaw B. Cursetjee's Sons (Guj.) Pvt. Ltd. and their workmen, received by the Central Government on 5-2-2007.

[No. L-31011/10/2003-IR (B-II)]

RAJINDER KUMAR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1

MUMBAI

Present

JUSTICE GHANSHYAM DASS,
Presiding Officer

REF. NO. CGIT-66 OF 2004

Parties: Employers in relation to the management of M/s. Darabshaw B. Cursetjee's Sons (Gujarat)

AND

Their workmen

Appearances:

For the Management : Mr. K.M. Jamadar, Adv.

For the Workman : Mrs. Shoba Gopal, Adv.

State : Maharashtra

Mumbai dated the 17th day of January, 2007

AWARD

This is a reference made by the Central Government in exercise of its powers under clause (d) of sub-section 1 of Section 10 of the Industrial Disputes Act 1947 (the Act for short) *vide* Government of India, Ministry of Labour, New Delhi Order No. L-31011/10/2003-IR(B-II) dated 19-7-2004. The terms of reference given in the schedule are as follows :

"Whether the action of the management of M/s. Darabshaw B. Cursetjee's Sons (Gujarat) Pvt. Ltd to terminate Shri B. Venugopalan Nair, Steno from service from 1-8-2001 is legal and justified? If not, what relief is the disputant concerned entitled to?"

2. The Statement of claim has been filed by Mr. B. Venugopalan Nair (hereinafter referred to as the workman) on 15-6-2005. He is the person who has been retrenched by the employer M/s. Darabshaw B. Cursetjee's Sons (Gujarat) (hereinafter referred to as the Company) w.e.f. 1-8-2001. The Company is engaged in the business of Shipping Agency, Stevedoring, Clearing and Forwarding Agency. The workman was appointed as Steno in view of the advertisement dt. 3-5-1979. He joined the services w.e.f. 15-6-1979. He was confirmed w.e.f. 1-4-1980. Sometimes in the year 2001, the Company started exerting pressure on its employees including the workman for retrenchment on the pretext that the Company has slackness in the business. The workman refused to be retrenched. However, the Company finally retrenched the workman *vide* letter dt. 27-7-2001 making it effective with effect from 1-8-2001 for retrenchment. The retrenchment is being challenged on the following grounds :

(i) That the Provisions of Section 25F of the said Act make it clear that any employer has to follow three conditions before resorting to the retrenchment of the workman and if these conditions are not fulfilled the retrenchment is rendered illegal;

(ii) That in the present case the said "workman" has not been paid any penny towards retrenchment compensation and the amounts paid though classified as retrenchment compensation was nothing but arrears due and payable by virtue of the settlement of the Wage Board and thus the retrenchment of the said "workman" is illegal and deserves to be quashed and set aside. This fact is brought out by the calculations ;

(iii) That in addition the "employer" has given a go by to the inexorable rule of "last Come First Go" by retaining employees junior to the said "workman" which again renders the retrenchment *void* and *non est* in the eyes of law;

(iv) That the reason of slack in business also taken by the "employer" as a ground for retrenchment is blatantly false in as much as the "employer" continues to recruit new hands and the business is prosperous. Thus the reason given for retrenchment by the "employer" is exfacie false;

(v) That Section 25F of the said "Act" makes it mandatory for the employer to comply with the requirements to be fulfilled before the retrenchment can be given effect to failing which the same is rendered nugatory;

3. The Company filed the written statement raising the plea firstly that the Statement of claim has not been filed by the Transport and Dock Workers Union, a Union which had espoused the claim and raised Industrial dispute for the workman after a gap of five month from his retrenchment and also pursued the conciliation proceedings before the concerned Conciliation Officer. Hence, the statement of claim cannot be accepted under the law. Further, it is next contended that the retrenchment has been made in accordance with law and the workman has been paid due retrenchment compensation. The grounds taken up by the workman are false. The conciliation proceedings had failed before the Conciliation Officer and on the receipt of failure report by the Government, there was a refusal for making a reference on the part of the Government. The order of refusal was challenged by the workman before the Honourable High Court of Bombay *vide* Writ Petition No. 364 of 2004 B. Venugopalan Nair *vs.* Union of India, which was allowed and the Government was directed to make the reference. In this way the Government has referred this matter to this Tribunal for decision.

4. The only point for consideration in the instant reference is as to whether the retrenchment of the workman is in accordance with law after complying with the mandatory provisions of the Industrial Dispute Act (hereinafter referred to as the Act).

5. At the very outset it may be mentioned that non-filing of statement of claim by the Transport and Dock Workers Union which had espoused the claim from the very beginning does not make the Statement of claim bad and reference cannot be dismissed on that ground.

6. The workman has filed his own affidavit dt. 3-4-2006 and additional affidavit dt. 07-6-2006 in lieu of his examination in chief in support of his please taken up for challenging the retrenchment. He has been cross-examined by the learned counsel for the Company wherein he admitted that at the time of retrenchment he received one month salary and notice pay but not the retrenchment compensation. He however, admitted that the Receipt, Paper No. C-6 (Ex. M-6) bears his signature. He did not make any protest at the time of the aforesaid receipt dt. 30-7-2001. He also admitted that at the time of his retrenchment Mr. Titus D'Souza was working as Stenographer and he was senior to him by several years. Mrs. Asha Unni and Mrs. Sangeetha Vishwanathan were working as Stenographers and sharing his work but he came to know from the documents at a later state that they were shown as typists and not stenographers. He informed the Union for raising the dispute after five months. The dispute of seniority and juniority was raised before the Conciliation Officer. He did not know about the contents of the failure report. He also admitted that Mrs. Asha Unni occupied his post after retrenchment and Smt. Sangeetha Vishwanathan has left the job. He is not aware as to whether any new recruitment has been made by the Company for the post of Stenographer. He also admitted that knowledge of shorthand is necessary for the post of Stenographer which is not required for the post of typist.

7. The Company filed the affidavit of Shri Lt. Col. Mahiar F. Dastoor (Retd) General Manager of the Company in lieu of his examination in chief. He joined as General Manager of the Company in the year 2003. He has deposed about the facts on the basis of records. He has been cross-examined by the learned counsel for the workman to the suggestions put to him have been denied. The parties have filed the documents which are not in dispute and the same have been exhibited.

8. I have heard the learned counsel for the parties and gone through the written submissions made by the parties have also been perused.

9. The Honourable High Court of Bombay while deciding the writ petition of the workman and directing the Government to make the reference has observed:—

"The law is now well settled that the appropriate government cannot go into the issue on merits of the matter. In the instant case, the issue would be whether the retrenchment was legal. Merely because the petitioner accepted the compensation or the retrenchment benefits does not mean that he had accepted his termination as legal. The very basis of his challenge to the purported termination seems to be that his juniors have been retained and that he was made to receive compensation under force. This is a matter to be decided by the industrial court on a reference made to it."

10. In view of the aforesaid order, it appears that the receipt of retrenchment compensation is not in dispute but the acceptance of retrenchment compensation does not make the retrenchment legal. The very basis of the challenged to the purported termination seems to be that his juniors have been retained and that he was made to receive compensation under force.

11. After going through the evidence on record, I do not find any *iota* of evidence to show that any junior to the workman has been retained in service and the principle of "Last Come First Go" has not been followed as required under Section 25F of the Act. Mr. D'Souza was admittedly much senior steno to the workman at the time of his retrenchment. Mrs. Asha Unni and Mrs. Sangeetha Vishwanathan are alleged to have been retained in service. For this, Mrs. Asha is not the Stenographer and there is no evidence worth the name on the basis of which it may be inferred that she was working as Stenographer at the time of retrenchment of the workman. Smt. Sangeetha Vishwanathan has already left the job. The record goes to show that Mrs. Asha Unni was working as Typist and not as Stenographer. It may also be observed that the plea of seniority and juniority was not raised on the time of raising the Industrial Dispute Act before the conciliation

proceedings. The Union does not appear to have come forward to pursue the matter of the workman and that is the reason, the workman himself filed the writ petition before the Honourable High Court challenging the refusal to make reference by the Government and pursuing his legal remedy. The clear cut admission of the workman is there that he received the retrenchment compensation vide Ex.-M-6 on 31-7-2001, the last day of the working of the workman since the retrenchment was to take effect w.e.f. following day i.e. 1-8-2001. There is no evidence to believe the contention of the workman that this receipt was signed by him under threat or force or coercion since the workman is a literate person working as Stenographer. He understood the contents of the receipt very well and signed the receipt with open eyes. He did not make any protest at that time nor made any complaint against it immediately after the receipt. The receipt goes to show that the workman was paid notice pay, leave salary, LTA and bonus besides the retrenchment compensation amounting to Rs. 1,46,494. The total amount paid to the workman was Rs. 2,44,000. The contention of the workman that he has not been paid any retrenchment compensation is altogether false. This receipt goes to show that the workman declaring that he had no further claim whatsoever against the Company and that no other dues are payable to him. It has further been shown on record that the workman received the amount of gratuity fund by means of separate cheque amounting to Rs. 1,42,725. The workman received the amount in full and final satisfaction. The workman however, tried to show that he was to receive the benefits out of wage board and the benefits paid by the Company towards wage board were wrongly shown as retrenchment compensation in the aforesaid receipt Ex.-M-6. This plea appears to be altogether false. Nothing is available on record to show that in fact he was to receive the arrears under the wage board *vide* minutes of meeting held on 23-9-1994 in between the Staff of the Company and management which run to the tune of Rs. 1,46,000 and odd on 31-1-2001. This is nothing but concoction just to explain the money paid rightly and legally towards retrenchment compensation. The contention of the workman that he did not receive a single penny towards retrenchment compensation is altogether false. The retrenchment has been done by the Company on account of slackness in its business and the same has been done in accordance with law after complying with the mandatory provisions of Section 25F of the Act. There is no malafide on the part of the Company in retrenching the workman.

12. The law laid down by the Honourable Supreme Court and the High Court *vide* rulings cited by the learned counsel for the workman in JT 2004 (7) SC 13 in between Krishna Bahadur Vs. M/s. Purna Theatre and Ors. and DBH International Ltd. Vs. Their Workmen, represented by Transport and Dock Workers Union and Anr. 2005 II CLR 679 is not in dispute. These rulings do not help the workman in showing that retrenchment is not in accordance with law.

13. Considering the entire record, and keeping in mind the discussions made above, I conclude that the action of the company in retrenching the workman is legal and justified. The workman is not entitled to any relief.

14. An Award is made accordingly.

JUSTICE GHANSHYAM DASS, Presiding Officer

नई दिल्ली, 6 फरवरी, 2007

का.आ. 644.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सी.पी.डब्ल्यू. डी. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण नं.-2, नई दिल्ली के पंचाट (संदर्भ संख्या 35/2003) को प्रकाशित करती है, जो केन्द्रीय सरकार को 6-2-2007 को प्राप्त हुआ था।

[सं. एल-42012/193/2002-आई आर (सी-II)]

अजय कुमार गौड़, डेस्क अधिकारी

New Delhi, the 6th February, 2007

S.O. 644.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 35/2003) of the Central Government Industrial Tribunal-cum-Labour Court No. 2, New Delhi as shown in the Annexure, in the Industrial Dispute between the management of Central Public Works Department and their workmen, received by the Central Government on 6-2-2007.

[No. L-42012/193/2002-IR(C-II)]

AJAY KUMAR GAUR, Desk Officer

ANNEXURE

BEFORE THE PRESIDING OFFICER: CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, NEW DELHI

Presiding Officer : R. N. RAI **I.D. No. 35/2003**

Present : Sh. Aditya Aggarwal 1st Party

Sh. Ghanshyam 2nd Party

In the Matter of :—

Shri Manoj Kumr & Ors.,
C/o. President,
All India Karamchari Union,
Plot No. 1, Aram Bagh,
Paharganj,
New Delhi-110055.

Versus

1. The Executive Engineer (Electrical Division),
   Central Public Works Department,
   Smt. Sucheta Kriplani Hospital,
   Panchkuiyan Road,
   New Delhi-110001.

2. M/s. Kiran Elevator Service,
   B-91, Pandav Nagar,
   Near Mother Dairy,
   Delhi-110092.

AWARD

The Ministry of Labour by its letter No. L-42012/193/2002-IR (C-II) Central Government Dt. 13-3-2003 has referred the following point for adjudication.

The points run as hereunder :—

"Whether the demand of the All India CPWD Karamchari Union, Delhi in relating to regularization of services of Shri Manoj Kumar, Narender Kumar, Rakesh Kumar and Jaswant Singh all Ex-fire Operators worked as Contract Labour with the Executive Engineer, Elecctric Division-1, CPWD, New Delhi is just, fair and legal? If yes, what relief these workmen are entitled to and from which date?"

The workmen applicants have filed claim statement. In the claim statement it is stated that the above said workers have not been paid any salary since April, 1999 though they have been working regularly as Fire Pump Operator under the supervision and control of the Executive Engineer (Electric Div.), CPWD. They have been making representation for the payment of their salary and other statutory benefits and facilities like Provident Funds, Bonus, Insurance, Casual Leaves, Earned Leaves but the management did not concede their demands and therefore, the union decided to espouse the cause of their said demands with the management of appropriate authorities.

That the other employees of the management working under the control and supervision of Executive Engineer (Electric Div.), CPWD gets wages as prescribed minimum wages by Delhi Government from time to time, bonus, 15 casual leaves, earned leaves, uniforms, washing allowances, PF & ESI etc.

That on the principle of equal pay for equal works they are entitled to the salaries of Rs. 2772 per month and the other said benefits and facilities since the date of their appointment. They have been deprived of the same by the said management.

That the union in the meeting held on 4-8-2001 resolved to espouse the cause of the above members with the management and the appropriate authorities and the Court.

That the union thereafter raised industrial dispute before the ALC/Conciliation Officer, Curzon Road, New Delhi requesting to direct the management to pay equal pay to the said workmen @ Rs. 2772 per month and also to provide other benefits and amenities like Casual Leave, Earned Leave, Bonus, Uniform, Washing Allowance at par with other employees and further direct the management to regularize their services from their respective dates of appointment.

That due to un-Co-operative and adamant attitude of the management and also taking false plea of non-existence of employer and employee relation, the matter could not be settled and, hence the above reference by the Central Government.

That apprehending that the said management would discontinue the contract and thereby dispensing with the services of the workmen, the above union filed a Civil Writ. Petition No.1376/2000 and Civil Writ Petition No.4766/1999 in which the Hon'ble High Court of Delhi at New Delhi was pleased to direct the management to maintain *status quo* as of that day as regards working of the workmen/petitioners be maintained *vide* its order dated 27-03-2000 and also *vide* order dated 9-8-1999.

That subsequent thereto the Hon'ble High Court of Delhi at New Delhi directed the union to approach the appropriate authority *i.e.* this Hon'ble Tribunal.

That lateron management terminated the contract and for more than two years workmen have been working directly under the above management as earlier but the management has not paid even a single paise to any workman from August, 1999 which is not only illegal but inhuman, unfair labour practice and also violation of various labour legislations as Payment of Wages Act, Bonus Act, Provident Fund Act etc.

That job on which the workmen have been working is regular and permanent and as a matter of law, these workmen are entitled to equal work— equal pay at par with other workmen of the management. The workmen have been put to starvation by illegal, unjust and unconstitutional acts of the management.

The management has filed statement of claim. In the statement of claim it is stated that the persons named therein *viz.* Shri Narendra Kumar, Rakesh Kumar, Jaswant Singh and Manoj Kumar have never worked with this division which is called SSE Hospital Elect. Division as contract labourers with any of the contractors to whom the work had been awarded by this division. This office is not aware whether they have worked as contract labourers with the Executive Engineer, Electric Division - I, CPWD, New Delhi as mentioned in the reference of the Ministry of Labour to the Hon'ble Tribunal.

The operation of Fire Pumps for Auditorium had been given as contract for short duration and

the details of the various contracts w.e.f. May, 1999 are as follows:

Sl. No.	Duration	Agreement No.	Name of Contractor
1.	10-5-1999 to 9-8-1999	3/99-2000	M/s. Delta Engg. Services
2.	10-08-1999 to 19-11-1999	17/99-2000	M/s. Capital Engg. Co.
3.	20-11-1999 to 19-2-2000	AE(E)3/SSKHED 25/99-2000	M/s. Delta Engg. Services
4.	21-2-2000 to 24-4-2000	AE(E)3/SSKHED 38/99-2000	M/s. Ability Engineers (India)

The above named contractors to whom the work had been awarded from time to time have intimated to this office in writing that they have never employed the above named persons on contract labours for above work. When the contracts are awarded, it is the contractor who engages labours for the satisfactory execution of work. This office has no role to play in the employment of labours for execution of a work on contract. Copies of letters dated 31-8-2001 of M/s. Delta Engg., Delhi dated 30-8-2001 of M/s. Capital Engg., Delhi and dated 30-8-2001 of M/s. Ability Engineers (India), Delhi are enclosed as Annexure II, III & IV respectively. Thus, the above claimants have never been engaged as contract labours for the above work by any of the contractors as mentioned above. Their claim that they are working since 11th July for the above work after the contractor had left is totally false, malafide and fictitious and therefore denied vehemently.

On 30-3-2000, these persons entered the pump house and manhandled the operator on duty and forcibly occupied the pump house. During the time M/s. Ability Engineers (India) were entrusted the work of operation of the pump house and this firm informed this incident on 31-3-2000. The matter was reported to the Station House Officer, Mandir Marg Police Station, Delhi Police, New Delhi by the Assistant Engineer (Elect.) on 31-3-2000.

On 10-4-2000, the Superintending Engineer (Elect.), Delhi, Central Electric Circle IV, CPWD, New Delhi addressed a letter to Shri Parnab Nand, DCP, New Delhi District Parliament Street, New Delhi and copies of letters were also endorsed to Addl. DCP and SHO, Mandir Marg, Police Station, New Delhi. A copy of this letter is enclosed as Annexure XI. The details of the incident were elaborated in this letter and the Police were requested to get the premises of the pump house vacated. Inspite of bringing the matter to the notice of the Police, no action was taken against these persons who remained under illegal occupation of this pump house. The hospital to which the premises belong are being approached for vacation of these illegal occupants who are using the premises for illegal and nefarious activities.

It has already been stated that the above named claimants are neither the employees of any contractor, nor the employees of this office and, therefore, the question of equal pay for equal work is fictitious.

There is no question of making any payment to these persons when they had neither been engaged by this office for any work nor by any contractor to whom the work had earlier been awarded.

As far as this office is concerned no such direction has been passed by the Hon'ble High Court of Delhi for approaching the Hon'ble Tribunal. It is the Ministry of Labour which has referred the matter to the Hon'ble Tribunal after failure of conciliation.

That the management had terminated the contract because it was not felt necessary to keep the operators on the round the clock basis for operation of fire fighting system of a building which is only three storied (basement +G/Floor + First Floor) and the auditorium for which the fire fighting system has been actually installed is occupied rarely when conferences and functions are held. It is reiterated that these claimants had never been contract labours and have not been engaged by the management and therefore, no amount whatsoever is payable to them.

The workmen applicants have filed rejoinder. In the rejoinder they have reiterated the averments of their claim statement and have denied most of the paras of the written statement. The management has also denied most of the paras of the claim statement.

Evidence of both the parties has been taken.

Heard arguments from both the sides and perused the papers on the record.

It was submitted from the side of the workmen that they have been working as Fire Pump Operator under supervision and control of the Superintending Engineer (Elect.) Div., CPWD and they have not been paid salary since April, 1999. They have been deprived of other statutory benefits and facilities like PF, Bonus, Insurance, Casual Leave, Earned Leave etc. They made several demands but to no effect. They have not been paid minimum wages prescribed by the Delhi Government. It was the duty of the management to make them payment on the principles of equal pay for equal work.

It was submitted that the management has terminated the contract and for more than 2 years the workmen have been working directly under the above management as earlier but the management has not paid even a single paise to any of the workman from August, 1999 which is illegal, inhuman and unfair and violation of various labour legislations just Payment of Wages Act, PF Act etc.

It was further submitted that the work on which the workmen worked is still in existence. This is regular nature of work.

It was submitted from the side of the management that it is true that 3/1999-2000, M/s. Delta Engineers Services was the contractor. The chart mentioning the names & duration of the contractor who have been given contract under the management is as under :—

Sl. No.	Duration	Agreement No.	Name of Contractor
1.	10-05-1999 to 09-08-1999	3/99-2000	M/s. Delta Engg. Services
2.	10-08-1999 to 19-11-1999	17/99-2000	M/s.Capital Engg. Co.
3.	20-11-1999 to 19-02-2000	AE(E)3/SSKHED 25/99-2000	M/s. Delta Engg. Services
4.	21-02-2000 to 24-04-2000	AE(E)3/SSKHED 38/99-2000	M/s. Ability Engineers (India)

The workmen have not impleaded the contractors in their claim as respondents. The contractors have intimated that these workmen have never been engaged by the above contractors as contract labours.

It was further submitted that on 30-3-2000 these persons entered the Pump House and manhandled the operator on duty and forcibly occupied the Pump House. At that time M/s. Ability Engineers was entrusted the work of operation of pump house and this firm informed this incident on 30-3-2000. The matter was reported to the Station House Officer, Mandir Marg Police Station, New Delhi by the Asstt. Engineer (Elect.) On 31-3-2000. The Police was requested to get the premises of the Pump House vacated but no action has been taken against these persons. The Pump House is in illegal occupation of these workmen. These workmen are using the premises for illegal and nefarious activities. These workmen are neither the employees of any contractor nor of the respondent/ management. They have not been engaged by the contractor or by the respondent, so there is no question of making any payment to these workmen.

From perusal of the record it appears that the contractors engaged during that period as mentioned above just as M/s. Capital Engg. Co., M/s. Delta Engg. Services & M/s. Ability Engineers (India) have sent complaint, paper No. B-17 to B-23 to the Executive Engineer (Elect.) regarding disturbances created by the workmen namely S/Shri Manoj Kumar, Narender Kumar, Rakesh Kumar and Shri Jaswant Singh under the garb of order of the Hon'ble Delhi High Court. The Asstt. Engineer has also written letter to the Station House Officer, Mandir Marg, New Delhi regarding the illegal activities of these workmen. One Shri Dayal Singh Operator has also complained regarding the threats given to him by these workmen. The Superintending Engineer has also referred the matter to higher authorities by letter No B-31.

It was submitted that the workmen on false representation obtained stay order from Hon'ble Delhi High Court and they have all along been creating disturbances in the pump operation.

The workmen have filed documents in support of their case. D-3 is the order of Shri R.K. Berry, J.E. It does not contain the name of any of the workman. D-4 is also a document bearing the signature of J.E., Shri R.K. Berry. There is no mention of any name of any of the workmen. D-5 is photocopy of Gate Pass. It is for M/s. D. S. Refrigeration. There is no name of any of the workmen on this paper. D-6 is challan. This also does not contain the name of any of the workman. D-7 is also challan. It also does not contain the name of any workman. D-3 to D-9 are photocopies of documents but they do not pertain to the workmen as these letters are neither addressed to any of the workmen nor contain name of any of the workmen. These documents are not at all relevant documents for the purpose of this case.

The management has filed application dated 11-05-2005 for orders for issuing necessary directions for opening the lock of the said Fire Pump House and for handing it over to the department. It appears that these workmen are in illegal possession of the Pump House.

The workmen have examined Shri Anand Kumar Gautam and Shri Mani Lal. These witnesses have deposed that these 5 workmen are working under the contractor Shri Umesh Tyagi and they have come to know of it in the year 2006. These witnesses have stated that they are getting salary monthly. These witnesses have filed false affidavit.

The management has examined Shri P.N. Sahni. This witness has stated categorically that these workmen are not working in the department. This witness has also stated that there is Pump House in his department but it is locked since 2000.

The workmen have not filed even a single scrap of paper to establish the fact that they have been working in the department. They have rather tried to confuse the Tribunal/Court by filing photocopy which do not pertain to them. They have failed to establish either by cogent documentary evidence or by oral evidence that they have been working either under the contractor or under the department. They have filed absolutely false claim.

From perusal of the record it becomes quite obvious that there are only assertions of the affidavit. Even there are culpable and manifest contradictions in the cross examination of the workmen. They have not disclosed as to when they were engaged initially anywhere in the claim. They cannot be deemed to be employed either by the contractor or by the management on their sheer affidavit. It further transpires that the workmen have failed miserably to establish even the bare averments of their claim statement. The averments of the claim statement are rather disproved. It appears that they worked for a month or two under the contractor and thereafter obtained stay order from the Hon'ble Delhi High Court for their continuance

and they created troubles on the basis of stay order but they have not been succeeded in getting duties either from the contractor or from the management. There is nothing on the record except the affidavits of the workmen.

The claim is for regularization. They have not proved as to for what period they have worked. They have unauthorisedly locked the Pump House of the management under the garb of the said order of the Hon'ble Delhi High Court which is absolutely illegal.

The workman have filed a frivolous claim deliberately knowing well that they have not performed duties either under the contractor or under the management. The claimants are liable to pay a cost of Rs.1000/- (Rs. One Thousand) to the management for this un-necessary forced litigation. There is no question of regularization in view of the Constitution Bench Judgment of Uma Devi's case. The workmen applicants are not entitled to get any relief.

The reference is replied thus :—

The demand of the All India CPWD Karamchari Union, Delhi in relating to regularization of services of Shri Manoj Kumar, Narender Kumar, Rakesh Kumar and Jaswant Singh all Ex Fire Operators worked as Contract Labour with the Executive Engineer, Electric Division - 1, CPWD, New Delhi is neither just nor fair nor legal. The workmen applicants are not entitled to get any relief as prayed for. A cost of Rs.1,000 (Rs. One Thousand) is imposed on the claimants for raising frivolous industrial dispute.

Award is given accordingly.

Date: 31-1-2007.

R.N. RAI, Presiding Officer

नई दिल्ली, 6 फरवरी, 2007

का.आ. 645.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सफदरजंग होस्पीटल के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. 2, नई दिल्ली के पंचाट (संदर्भ संख्या 70/2006) को प्रकाशित करती है, जो केन्द्रीय सरकार को 6-2-2007 को प्राप्त हुआ था।

[सं. एल-42012/241/2005-आई आर (सी-II)]

अजय कुमार गौड़, डेस्क अधिकारी

New Delhi, the 6th February, 2007

S.O. 645.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 70/2006) of the Central Government Industrial Tribunal-cum-Labour Court No. II, New Delhi as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of Safdarjang Hospital, and their workmen, which was received by the Central Government on 6-2-2007.

[No. L-42012/241/2005-IR (C-II)]

AJAY KUMAR GAUR, Desk Officer

ANNEXURE

BEFORE THE PRESIDING OFFICER: CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II

NEW DELHI

Presiding Officer: R.N. RAI **I.D. No. 70/2006**

In the matter of:—

Shri Laxmi Narain,
S/o. Shri Attar Singh,
C/o. S.S. Thiriyan, Deep Plaza,
Shop No. 19, Before New Court,
Gurgaon (Haryana)

Versus

The Chief Administrative Officer,
Safdurjung Hospital,
New Delhi

AWARD

The Ministry of Labour by its letter No. L-42012/241/2005-IR (C-II) Central Government Dt. 10-8-2006 has referred the following point for adjudication.

The point runs as hereunder:—

"Whether the action of the management of Safdurjung Hospital in terminating the services of Shri Laxmi Narain, S/o. Shri Attar Singh w.e.f. 17-2-2002 is legal and justified? If not, to what relief the workman is entitled?"

It transpires from perusal of the order sheet that reference was received in August, 2006. Notice has been served on the claimant/workman but no claim has been filed.

No dispute award is given.

Date : 29-1-2007 R.N. RAI, Presiding Officer

नई दिल्ली, 6 फरवरी, 2007

का.आ. 646.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सफदरजंग होस्पीटल के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. 2, नई दिल्ली के पंचाट (संदर्भ संख्या 69/2006) को प्रकाशित करती है, जो केन्द्रीय सरकार को 6-2-2007 को प्राप्त हुआ था।

[सं. एल-42012/240/2005-आई आर (सीएम-II)]

अजय कुमार गौड़, डेस्क अधिकारी

New Delhi, the 6th February, 2007

S.O. 646.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 69/2006) of the Central Government Industrial Tribunal-cum-Labour Court No. II, New Delhi as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of Safdarjang Hospital, and their workman, which was received by the Central Government on 6-2-2007.

[No. L-42012/240/2005-IR (CM-II)]

AJAY KUMAR GAUR, Desk Officer

ANNEXURE

BEFORE THE PRESIDING OFFICER: CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II NEW DELHI

Presiding Officer: R.N. RAI I.D. No. 69/2006

In the matter of:—

Shri Ajeet,
S/o. Shri Chandgi Ram,
C/o. S.S. Thiriyan, Deep Plaza,
Shop No. 19, Before New Court,
Gurgaon (Haryana)

Versus

The Chief Administrative Officer,
Safdurjung Hospital,
New Delhi

AWARD

The Ministry of Labour by its letter No. L-42012/240/2005-IR (CM-II) Central Government DT. 10-8-2006 has referred the following point for adjudication.

The point runs as hereunder:—

"Whether the action of the management of Safdurjung Hospital in terminating the services of Shri Ajeet, S/o Shri Chandgi Ram w.e.f. 17-2-2002 is legal and justified? If not, to what relief the workman is entitled?"

It transpires from perusal of the order sheet that reference was received in August, 2006. Notice has been served on the claimant/workman but no claim has been filed.

No dispute award is given.

Date : 29-1-2007 R. N. RAI, Presiding Officer

नई दिल्ली, 6 फरवरी, 2007

का.आ. 647.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सी.पी.डब्ल्यू. डी. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. 2, नई दिल्ली के पंचाट (संदर्भ संख्या 51/2006) को प्रकाशित करती है, जो केन्द्रीय सरकार को 6-2-2007 को प्राप्त हुआ था ।

[सं. एल-42012/109/2005-आई आर (सीएम-II)]

अजय कुमार गौड़, डेस्क अधिकारी

New Delhi, the 6th February, 2007

S.O. 647.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 51/2006) of the Central Government Industrial Tribunal-cum-Labour Court No. II, New Delhi as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of CPWD and their workman, which was received by the Central Government on 6-2-2007.

[No. L-42012/109/2005-IR (CM-II)]

AJAY KUMAR GAUR, Desk Officer

ANNEXURE

BEFORE THE PRESIDING OFFICER: CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II NEW DELHI

Presiding Officer : R.N. RAI I.D. No. 51/2006

In the matter of:—

Shri Prem Chand Gaur,
C/o. All India CPWD (MRM)
Karamchari Sangathan,
4823, Gali No. 13,
Balbir Nagar Extension,
Shahdara,
Delhi-110032

Versus

The Executive Engineer, Elect. Division-11,
CPWD,
IARI Pusa,
New Delhi-110012

AWARD

The Ministry of Labour by its letter No. L-42012/109/2005-IR (CM-II) Cental Government DT. 22-6-2006 has referred the following point for adjudication.

The point runs as hereunder:—

"Whether the action of the management of CPWD in not regularizing the services of Shri Prem Chand Gaur, Operator is legal and justified? If not, to what relief the workman is entitled?"

It transpires from perusal of the order sheet that 6-9-2006 was given for filing claim. The workman turned up on 13-9-2006 but did not file claim. Against last opportunity was given on 6-11-2006, 14-12-2006 & 17-1-2007 but no claim has been filed. None was present even on 31-1-2007. No claim statement has been filed.

No dispute award is given.

Date : 31-01-2007 R. N. RAI, Presiding Officer

नई दिल्ली, 6 फरवरी, 2007

का.आ. 648.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सी. पी. डब्ल्यू. डी. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण नं. 2, नई दिल्ली के पंचाट (संदर्भ संख्या 52/2006) को प्रकाशित करती है, जो केन्द्रीय सरकार को 6-2-2007 को प्राप्त हुआ था ।

[सं. एल-42012/110/2005-आई.आर. (सीएम-II)]

अजय कुमार गौड़, डेस्क अधिकारी

New Delhi, the 6th February, 2007

S.O. 648.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 52/2006) of the Central Govt. Industrial Tribunal-cum-Labour Court, No. II, New Delhi as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of CPWD and their workman, which was received by the Central Government on 6-2-2007.

[No. L-42012/110/2005-IR(CM-II)]

AJAY KUMAR GAUR, Desk Officer

ANNEXURE

BEFORE THE PRESIDING OFFICER: CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, NEW DELHI

Presiding Officer : R. N. Rai **I.D. No. 52/2006**

In the matter of :—

Shri Surender,
C/o. All India CPWD (MRM) Karamchari Sangathan,
4823, Gali No. 13,
Balbir Nagar Extension,
Shahdara,
Delhi-110032.

Versus

The Executive Engineer,
N Division, CPWD,
I. P. Bhawan,
New Delhi.

AWARD

The Ministry of Labour by its letter No. L-42012/110/2005-IR(CM-II) Central Government dtd. 22-6-2006 has referred the following point for adjudication.

The point runs as hereunder :—

"Whether the action of the management of CPWD of not regularizing the services of Shri Surender w.e.f. 14-8-1978 and also of non-payment of equal pay for equal work during 14-8-1978 to 10-5-1982 is legal and justified ? If not, to what relief the workman is entitled to."

It transpires from perusal of the order sheet that 6-9-2006 was given for filing claim. The workman turned up on 13-9-2006 but did not file claim. Again last opportunity was given on 6-11-2006, 14-12-2006 & 17-1-2007 but no claim has been filed. None was present even on 31-1-2007. No claim statement has been filed.

No dispute Award is given.

Date : 31-1-2007 R. N. RAI, Presiding Officer

नई दिल्ली, 6 फरवरी, 2007

का.आ. 649.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सी. पी. डब्ल्यू. डी. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण नं. 2, नई दिल्ली के पंचाट (संदर्भ संख्या 37/2006) को प्रकाशित करती है, जो केन्द्रीय सरकार को 6-2-2007 को प्राप्त हुआ था ।

[सं. एल-42012/98/2005-आई.आर. (सीएम-II)]

अजय कुमार गौड़, डेस्क अधिकारी

New Delhi, the 6th February, 2007

S.O. 649.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 37/2006) of the Central Govt. Industrial Tribunal-cum-Labour Court, No. II, New Delhi as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of CPWD and their workman, which was received by the Central Government on 6-2-2007.

[No. L-42012/98/2005-IR(CM-II)]

AJAY KUMAR GAUR, Desk Officer

ANNEXURE

BEFORE THE PRESIDING OFFICER: CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, NEW DELHI

Presiding Officer : R.N. Rai **I.D.No. 37/2006**

In the matter of :—

Shri Anil Kumar,
C/o. All India CPWD (MRM)
Karamchari Sangathan,
4823, Gali No. 13,
Balbir Nagar Extension,
Shahdara,
Delhi-110032.

Versus

The Executive Engineer, Elect. Division-11,
CPWD,
IARI Pusa,
New Delhi-110012.

AWARD

The Ministry of Labour by its letter No. L-42012/98/2005-IR(CM-II) Central Government dt. 12-06-2006 has referred the following point for adjudication.

The point runs as hereunder :—

"Whether the action of the management of CPWD is not regularizing the workman Shri Anil Kumar is legal and justified ? If not, to what relief the workman is entitled to and from which date."

It transpires from perusal of the order sheet that 7-9-2006 was given for filing claim. The workman turned up on 13-9-2006 but did not file claim. Again last opportunity was given on 6-11-2006, 14-12-2006 & 17-1-2007 but no claim has been filed. None was present even on 31-1-2007. No claim statement has been filed.

No dispute Award is given.

Date: 31-1-2007

R. N. RAI, Presiding Officer

नई दिल्ली, 6 फरवरी, 2007

का.आ. 650.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार डब्ल्यू. सी. एल. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण नागपुर के पंचाट (संदर्भ संख्या 55/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 6-2-2007 को प्राप्त हुआ था ।

[सं. एल-22012/205/2003-आई.आर. (सी एम-II)]

अजय कुमार गौड़, डेस्क अधिकारी

New Delhi, the 6th February, 2007

S.O. 650.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 55/2004) of the Central Govt. Industrial Tribunal-cum-Labour Court, Nagpur as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of WCL and their workman, which was received by the Central Government on 6-2-2007

[No. L-22012/205/2003-IR(CM-II)]

AJAY KUMAR GAUR, Desk Officer

ANNEXURE

BEFORE SHRI A. N. YADAV PRESIDING OFFICER, CGIT-CUM-LABOUR COURT, NAGPUR

Case No. CGIT/NGP/55/2004 Date : 18-01-2007

Petitioner Party No. 1	:	**Shri Ramesh Keshar Singh,** R/o, Dundariya No. 8 Dafaai, Post Dundariya, Teh. Junaradev, Distt. Chhindwarat.

Versus

Respondent	:	**The General Manager,** Western Coalfields
Party No. 2		Limited of Kanhan Area, Post Dundariya, Teh. Junaradev, Distt. Chhindwara.

AWARD

Dated, the 18th January 2007

1. The Central Government after satisfying the existence of disputes between Shri Ramesh Keshar Singh, R/o, Dundariya No. 8 Dafaai, Post Dundariya, Teh. Junaradev, Distt. Chhindwara Party No. 1 and The General Manager, Western Coalfields Limited of Kanhan Area, Post Dundariya, Teh. Junaradev, Distt. Chhindwara Party No. 2 referred the same for adjudication to this Tribunal *vide* its letter No. L-22012/205/2003-IR(CM-II) Dtd. 11-05-2004 under clause (d) of sub-section (1) and sub-section (2A) of Section 10 of Industrial Distpute Act, 1947 (14 of 1947) with the following schedule.

2. "Whether the action of the Management of the General Manager, Western Coalfields Limited of Kanhan Area, Post Dundariya, Teh. Junaradev, Distt. Chhindwara in terminating the service of Shri Remesh, Shri Keshar Singh, Tub Loader, Damua Colliery w.e.f. 17-05-2001 is legal, proper and justified ? If not, what relief the said workman is entitled for ?"

3. The reference received to this court in the year 2000 notices were issued in the year 2005. The petitioner as well as the Respondent did not appeared in spite of the notices to them. He has neither attended the court nor filed the Statement of Claim till today. Though a considerable period of more than year has been lapsed. Hence it is disposed off for default of the petitioner.

Hence this no dispute award.

Dated : 18-01-2007 A. N. YADAV, Presiding Officer

नई दिल्ली, 6 फरवरी, 2007

का.आ. 651.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार डब्ल्यू. सी. एल. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण नागपुर के पंचाट (संदर्भ संख्या 58/2002) को प्रकाशित करती है, जो केन्द्रीय सरकार को 6-2-2007 को प्राप्त हुआ था ।

[सं. एल-22012/404/1996-आई.आर. (सी-II)]

अजय कुमार गौड़, डेस्क अधिकारी

New Delhi, the 6th February, 2007

S.O. 651.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 58/2002) of the

Central Govt. Industrial Tribunal-cum-Labour Court, Nagpur as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of WCL and their workman, which was received by the Central Government on 06-02-2007.

[No. L-22012/404/1996-IR(C-II)]

AJAY KUMAR GAUR, Desk Officer

ANNEXURE

BEFORE SHRI A. N. YADAV PRESIDING OFFICER, CGIT-CUM-LABOUR COURT, NAGPUR

Case No. CGIT/NGP/58/2002 Date: 18-01-2007

Petitioner	:	**Shri Pralahad Jagan,** Through General
Party No. 1		Secretary, Lalzanda Coal Mines Mazdoor Union, [CITU], C/o. Coal Estate, Civil Lines, Nagpur.
		Versus
Respondent Party No. 2	:	**The General Manager,** Western Coalfields Limited Nagpur Area, Jaripatka, Nagpur.

AWARD

[Dated : 18th January 2007]

1. The Central Government after satisfying the existence of disputes between Shri Pralahad Jagan, Through General Secretary, Lalzanda Coal Mines Mazdoor Union, [CITU], C/o. Coal Estate, Civil Lines, Nagpur Party No. 1 and The General Manager, Western Coalfields Limited, Nagpur Area, Jaripatka, Nagpur Party No. 2 referred the same for adjudication to this Tribunal vide its Letter No. L-2212/404/96-IR(C-II) Dtd. 2-09-1997 under clause (d) of sub-section (1) and sub-section (2A) of Section 10 of Industrial Distputes Act, 1947 [14 of 1947] with the following schedule.

2. "Whether the action of the management of Pipla Sub Area of Nagpur Area of W.C.L. in dismissing Shri Pralahad Jagan, Peon, from service vide Order Dt. 29-30/04/1992 is legal and justified ? If not, to what relief is the workman entitled and from which date ?"

3. The reference came for hearing on 18-01-2007 nobody is appearing in the reference right from 2002 *i.e.* from the date on which that has been returned or transferred to this Court. The notices were issued directing the parties to remain present, but nobody responded it. The Management finally appeared and filed a death certificate of the petitioner, which indicate that he expired on 22-11-2001. Neither his heirs nor any representative had applied for continuing the case. Hence it is disposed off as abated due to the death of Petitioner.

Hence this no dispute award.

Dated : 18-01-2007 A. N. YADAV, Presiding Officer

नई दिल्ली, 6 फरवरी, 2007

का.आ. 652.–औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सिंडिकेट बैंक के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय बैंगलोर के पंचाट (संदर्भ संख्या 68/2000) को प्रकाशित करती है, जो केन्द्रीय सरकार को 5-2-2007 को प्राप्त हुआ था ।

[सं. एल-12012/102/2000-आई.आर. (बी-II)]

राजिन्द्र कुमार, डेस्क अधिकारी

New Delhi, the 6th February, 2007

S.O. 652.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 68/2000) of the Central Govt. Industrial Tribunal-cum-Labour Court, Bangalore as shown in the Annexure in the Industrial Dispute between the management of Syndicate Bank and their workman, received by the Central Government on 5-2-2007.

[No. L-12012/102/2000-IR(B-II)]

RAJINDER KUMAR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, BANGALORE

Dated: 18th January, 2007

PRESENT

Shri A.R. SIDDIQUI, Presiding Officer

C. R. No. 68/2000

I PARTY	II PARTY
Shri T. Umesh Pai, Mahalasa, MIG 74, Hudco Colony, MANIPAL-576 119	The General Manager (P), Syndicate Bank, P.B. No. 1, MANIPAL-576 119

AWARD

1. The Central Government by exercising the powers conferred by clause (d) of sub-section 2A of the Section 10 of the Industrial Disputes Act, 1947 has referred this dispute *vide* order No. L-12012/102/2000/IR (B-II) dated 21st September 2000 for adjudication on the following schedule :

SCHEDULE

"Whether the action of the management of Syndicate Bank Head Office, Manipal is justified in not conducting the enquiry DE NOVO as requested by Shri T. Umesh Pai, Ex. Clerk, Syndicate Bank, Manipal and to reinstate him with all back wages and consequential benefits? If not, what relief the said workman is entitled ?"

2. The first party workman challenged the dismissal order passed against him as unjust and illegal, the findings of the enquiry officer as perverse and also challenged the enquiry proceedings on the ground that it was not in accordance with the principles of natural justice and that he was not given proper opportunity to defend himself during the course of enquiry.

3. Based on the respective contentions of the parties with regard to validity and fairness or otherwise of the enquiry proceedings, this tribunal on 16th March, 2004 framed the following Preliminary Issue: "Whether the Domestic Enquiry conducted against the first party by the Second Party is fair and proper ?"

4. During the course of trial of the said issue the management examined the enquiry officer as MW1 and got marked 5. documents at Ex. M1 to M5 including the enquiry report and the proceedings of the enquiry. There was no evidence led on the part of the first party and after having heard the learned counsels for the respective parties, this tribunal by order dated 22nd November, 2006 recorded a finding on the above said issue to the effect that the enquiry conducted by the Second party against the first party is fair and proper. Thereupon, the matter was taken up to hear the arguments on merits i.e. on the point of alleged perversity of the findings and the quantum of the punishment. On 28th December, 2006, when the matter was taken up for arguments, Learned Counsel, Shri SR for Shri V. S. Naik representing the first party submitted that he has no arguments to advance. Counsel for the management was not available and therefore, the case came to be posted this day for award.

5. Now, therefore, in the light of the aforesaid finding recorded by this tribunal holding that the DE conducted against the first party by the Second party is fair and proper, as noted above, the question now to be gone into is whether the findings of the enquiry officer suffered from perversity and if not, the punishment of dismissal passed against the first party was disproportionate to the gravity of the misconduct committed by him. As noted above, Learned Counsel representing the first party had no arguments to advance and therefore, the burden cast upon the first party to substantiate before this tribunal, his contention that findings suffered from perversity has remained to be discharged. Even otherwise, this court being duty bound to go through the very enquiry findings so as to find out as to whether the findings of the enquiry officer suffered from any perversity or not and from the reading of the findings of the enquiry officer, it gets abundantly clear that they have been supported by cogent, satisfactory and sufficient evidence orally as well as documentary in proving the charges of misconduct levelled against the first party.

6. During the course of enquiry the management examined two witnesses' namely, MWI and MW2 who had conducted the investigation into the charges of misconduct levelled against the first party. Both of them in detail have spoken to the investigation done by them with reference to the documentary evidence made available to them by the management bank. It can be seen from the evidence brought on record that in the deposition of the aforesaid two witnesses the management got marked in all 121 documents at Ex. M Ex. 1 to 121. Learned enquiry officer after having analysed, threadbare, the oral and documentary evidence brought on record during the course of enquiry under the heading 'analysis of evidence' from pages 9 to 11 assigned the following reasonings in order to come to the conclusion that charges of misconduct levelled against the first party have been proved by the management.

Analysis of Evidence

For the analysis of evidence, I have relied on the oral evidence of the management witnesses and the supportive documentary evidences. Though ample opportunities were given to the CSE, not only for cross examining the management witnesses but also to put forth the case of his defence, the CSE did not, at any point of time, avail of those opportunities. Even the opportunity to make his written submissions on the management evidence appearing adduced in the enquiry was also not availed of by him. In view of the same I construe that all the documents taken on record have gone on record undisputed. My analysis of evidence is done in the above background.

The issues before me for consideration are whether the CSE in connivance with certain printers/ suppliers.

(a) Obtained from them non-genuine bills, prepared payment vouchers, forged the signatures of the bank officials on such bills and caused payment aggregating to Rs. 3,32,028.75 to the printers/suppliers.

(b) Caused excess payment of Rs. 24,500 to the printers by altering/inflating the amounts in the bills/vouchers thereby falsifying the records of the bank,

(c) Derived/caused others to derive undue and unlawful pecuniary benefit and thereby caused pecuniary loss to the bank,

(d) Reimbursed to the bank, a part of the loss caused to the bank when the said fraudulent transactions came to light.

The above issues are analysed seriatim as under :

(a) It has been brought on record through the deposition of MW1 (Investigating Officer) with

supporting documentary evidence (MEX. 1 to MEX 69, MEX 98 to MEX 103 and MEX 104 to MEX 111) that the CSE while functioning as Clerk in SRD HO, Manipal during the period from 21-2-1992 to 24-6-1997 caused payments aggregating to Rs.3,32,028.75 to 5 Printers and 3 Suppliers of stationery items, through HO: Accounts journal section by obtaining fake/ non-genuine bills from them. This is also reinforced by the circumstances that no orders were placed with the said printers/suppliers as per the records and no items/materials mentioned in the bills were supplied/received by HO: SRD. It is also on record that the CSE was the Clerk in the Section and making the entries in respect of such orders/suppliers in the ledgers. However, no entries are seen made in respect of the above items which suggest that the CSE had caused payments to the suppliers as above by obtaining from them fake bills. The categorical statements made by the officials working in SRD at HO (MEX-98 to 103) prove beyond doubt that their signatures appearing on the said bills/ vouchers were not made by them and that they were forged. As only the CSE had been making entries of the bills/vouchers in respect of the supplies made by the printers/suppliers, in the ledgers and the said vouchers were prepared by the CSE in his own handwriting, I hold the view that the CSE only has forged the signatures of the officials as appearing in the bills. It has also been confessed/confirmed by him by reimbursing part of the amount so misappropriated by him (115 to 117). The allegation is therefore, conclusively proved in the enquiry.

(b) MW2 (Investigating Officer) in his deposition has categorically stated Shri Umesh Pai, the CSE, during the period between 14-11-1995 and 24-6-1997 had fraudulently altered 33 bills (MEX 70 to 97) by inflating the amounts in the bills before sending them to HO: Accounts Journal Section and caused to make excess payment of Rs. 24,500 to M/s. Gurunarayan Printers and M/s. Mathrushree Screen Printers and that all the payment vouchers were prepared by the CSE in his handwriting. MEX -112 and 113 confirm the fact that the said printers had received the excess amounts as above. The allegation is therefore, proved.

(c) The evidences adduced in the enquiry prove beyond doubt that the CSE in connivance with the printers/suppliers had caused fraudulent payments/excess payment amounting to Rs. 3,56,528.75 to them without any supportive orders etc. It is also on record that the CSE as well as the printers/suppliers admitted to have committed the fraud on the bank by reimbursing a part of the amounts fraudulently received by them (MEX-115 to 119). This clearly shows that the CSE/Printers/Suppliers derived undue/unlawful pecuniary benefits at the cost of the bank and there by caused financial loss to the bank. It therefore, hold this allegation also as proved in the enquiry.

(d) The deposition of MW1 with supportive documents MEX (115 to 119) have brought on record that the CSE as well as some of the printers/suppliers had confessed to have cheated the bank by committing the above fraudulent acts and had agreed to reimburse all the losses caused to the bank and accordingly, the CSE had deposited Rs. 54,50,00 and Rs. 30,000 under his signature with the narration "being the amount misappropriated in connection with the Printers Expense Account". An amount of Rs.15,500 (MEX-17) was deposited on behalf of the CSE by his son. M/s. Gurunarayan Printers and M/s. Victoria Printing Works, Bantwal have also reimbursed Rs. 15000 and Rs.6494 on 16-7-1997 and 15-10-1997 respectively (MEX-118 and 119).

These evidences go on record unrebutted as the defence has neither cross examined the management witnesses nor adduced any evidence' to dislodge the management evidence, thereby establishing the acts of fraud, forgery, falsification of records and misappropriation committed by Shri T. Umesh Pai."

7. From the reading of the above said passage, it becomes crystal clear that the learned enquiry officer has bestowed his careful attention and analysed the oral and documentary evidence in its proper perspective and rightly came to the conclusion that charges of misconduct levelled against the first party have been established by sufficient and legal evidence. From the evidence brought on record and the reasonings given by the learned enquiry officer therefore, by no stretch of imagination one can arrive at a conclusion that the findings given by him suffered from any perversity.

8. Now, coming to the question of quantum of punishment, the charges of misconduct levelled against the first party in my opinion are very grave in nature. The manner in which he has misappropriated the funds belonging to the management bank certainly would lend support to the contention of the management that he has committed a gross misconduct loosing confidence in the

mind of the management bank. Therefore, in my opinion, it is not a fit case wherein leniency can be shown with regard to the punishment imposed upon the first party. Hence the following award :

AWARD

The reference stands dismissed. No costs.

(Dictated to PA. Transcribed by her corrected and signed by me on 18th January, 2007).

A. R. SIDDIQUI, Presding Officer

नई दिल्ली, 7 फरवरी, 2007

का.आ. 653.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ई. सी. एल. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, आसनसोल के पंचाट (संदर्भ संख्या 105/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 7-2-2007 को प्राप्त हुआ था ।

[सं. एल-22012/441/2004-आई आर (सीएम-II)]

अजय कुमार गौड़, डेस्क अधिकारी

New Delhi, the 7th February, 2007

S.O. 653.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 105/2005) of the Central Government Industrial Tribunal-cum-Labour Court, Asansol as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of ECL and their workmen, which was received by the Central Government on 7-2-2007.

[No. L-22012/441/2004-IR(CM-II)]

AJAY KUMAR GAUR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, ASANSOL

PRESENT:

SRI MD. SARFARAZ KHAN, Presiding Officer

REFERENCE No. 105 OF 2005

PARTIES : The Agent, Parsea Colliery of E.C.L., Burdwan

V/s.

The General Secretary, Koyala Mazdoor Congress, Asansol, Burdwan.

REPRESENTATIVES:

For the Management : Sri P. K. Das, Advocate.

For the union (Workman) : Sri S. K. Pandey, General Secretary, Koyala Mazdoor Congress, Asansol, Burdwan.

INDUSTRY : COAL STATE : WEST BENGAL.

Dated the 19-12-2006.

AWARD

In exercise of powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), Government of India through the Ministry of Labour *vide* its letter No. L-22012/441/2004-IR(CM-II) dated 1-9-2005 has been pleased to refer the following dispute for adjudication by this Tribunal.

SCHEDULE

"Whether the action of the management of Parsea Colliery in dismissing Sri Krishna Muchi is legal and justified? If not, to what relief the individual is entitled to ?"

2. After having received the order No. L-22012/441/2004-IR(CM-II) dated 1-9-2005 of the said reference from the Govt. of India, Ministry of Labour, New Delhi, for adjudication of the dispute, a reference case No. 105 of 2005 was registered on 9-9-2005 and accordingly an order to that effect was passed to issue notices to the respective parties through the registered post directing them to appear in the Court on the date fixed and file their written statements along with the relevant documents and a list of witnesses in support of their claims. Pursuant to the said order notices by the registered post were issued to the parties concerned. Sri S. K. Pandey, General Secretary of the Union appeared on behalf of the workman concerned and Sri P.K. Das, Advocate appeared on behalf of the management along with a letter of authority issued by the competent authority.

3. From perusal of the record it transpires that Sri S. K. Pandey, General Secretary of the Union has filed his written statement along with the xerox copies of some relevant documents in support of its case. It is further clear from the order sheets of the record that Sri P. K. Das, Advocate for the management has not filed his written statement in support of his case rather he has left taking any step on behalf of the management. Several repeated adjournments were given to the management in between 7-11-05 to 24-10-06 for filing written statement and to take suitable step but to no effect. The case was ultimately fixed for ex-parte hearing on 29-11-06 in absence of the management as none came to contest the case on its behalf.

The case of the Union in brief compass as set forth in the written statement is that Sri Krishna Muchi, U.M. No. 126330 was a permanent employee of the company as Under Ground Loader at Parsea Colliery, Kunustoria of M/s. Eastern Coalfields Limited.

5. The main case of the Union is that the delinquent workman absented from his duty w.e.f. 30-12-1998 due to his sickness and after being declared fit when the workman reported for his duty he was not allowed to join his duty. The workman was chargesheeted for his alleged unauthorized absence from duty *vide* Chagresheet No. ECL/PC/P & IR/9/99/99 dated 19-4-1999.

6. The further case of the Union is that the workman concerned met with an accident while coming to attend his duty which resulted dislocation of his hip joint and other injuries. A private practitioner treated him and after being fit he reported for his duty together with medical certificate granted by the doctor concerned.

7. It is also the case of the union that he appeared before the Enquiry Officer but he was not given full opportunity during the enquiry proceeding and the Enquiry Officer gave his report against the workman concerned basing the statement given by the management's representative and ignored the medical certificate etc. submitted by the workman concerned.

8. It has also been pleaded that the workman concerned was not served with the second show-cause notice before awarding him such a harsh punishment of dismissal on the basis of invalid enquiry report. The workman approached before the management for his re-instatement but to no effect and since then he is sitting idle without any employment. The dismissal has been claimed to be illegal and unjustified and sought a relief for reinstatement with all the consequential benefit and payment of full back wages.

9. The union in support of his case has filed the Xerox copies of the charge sheet dated 19-4-99, copies of the notice of enquiry, copy of the appointment of Enquiry Officer, copy of the enquiry proceeding along with its report, copy of the reply of the charge sheet and copy of the medical certificate.

10. On perusal of the copy of the charge sheet it transpires that he was charge sheeted for committing misconduct under clause 17(1) (d) and (n) of the Model Standing Order applicable to the establishment but the only charge of unauthorized absence w.e.f. 30-12-98 to 19-4-99 as per the enquiry report is said to have been established.

11. It is obvious from the perusal of the enquiry proceeding and its report that the workman concerned had participated in the enquiry proceeding. He has admitted in his statement that he did not send any information to the management about his illness as there is no male member in his house except himself. He has clealy further admitted that he was absent from his duty from 30-12-98 to 19-4-99 as he had met with an accident while coming for duty riding on a motorcycle with his friend and received injury on right hip joint causing fracture or dislocation. He got himself examined by a doctor near his village and remained under his treatment during the relevant period. Besides this the Enquiry Officer has also mentioned in his finding that the delinquent workman had produced the medical certificate wherein it is written that he was treated by outside practioner for dislocation of right hip joint from 30-12-98 to 22-4-99.

12. Having gone through the entire facts, circumstances, enquiry proceeding along with its report I find that the workman concerned was admittedly absent from his duty w.e.f. 30-12-98 to 19-4-99 i.e. for more than 3 months continuously without any prior permission and information to the management. But then it admitted fact that it is a simple case of unauthorized absence from duty during the said relevant period which is duly explained and the reasons of absence supported with medical certificate have been found to be sufficient and relevant. As such the absence from duty can't be said to be deliberate and with malafide intention rather it was under the compelling circumstances beyond the control of the delinquent workman.

13. During the course of argument it was submitted by the union that a simple case of unauthorized absence of about three and half months, duly explained and supported by the medical certificate and under the compelling circumstance can't be said to be a gross misconduct. The attention of the court was drawn towards the provision of the Model Standing Order applicable to the establishment, where the extreme punishment prescribed is dismissal as per the gravity of the misconduct and it was claimed that the extreme penalty can not be imposed upon the workman in such a minor case of alleged misconduct of an unauthorized absence for a short period of three and half months. I find much force in the submission and argument of the union which is reasonable and convincing.

14. Admittedly the workman concerned is much by caste who is the member of Scheduled Caste. He is an illiterate man of the weaker of the society. He is no doubt financially weak and poor who has suffered a lot for about more than eight years and he had never been gainfully employed any where during the period after his dismissal. It has been several times clearly observed by the different Hon'ble High Courts and the Apex Court as well that before imposing a punishment of dismissal it is necessary for the disciplinary authority to consider the socio-economic back ground of the workman, his family back ground, length of service put in by the employee, his past record and other surrounding circumstances including the nature of the misconduct and lastly the compelling circumstances to commit the misconduct. These are the relevant factors which must have to be kept in mind by the authority at the time of imposing the punishment which has not been done or ignored by the management in this case.

15. However I am of the considered view that the punishment of dismissal for an unauthorized absence for three and half months under the compelling circumstances and without any malafide intention is not just and proper rather it is too harsh a punishment which is totally disproportionate to the alleged misconduct. Such a simple case should have been dealt with leniently by the management. As such the impugned order of dismissal of the delinquent workman is hereby set aside and he is directed to be reinstated with the continuity of the service and with the consequential benefits. I think it appropriate that the workman concerned be imposed a punishment of strict warning not to repeat the same misconduct in future failing which he will face a serious consequence. It is further directed that the workman will be entitled to get only 50% of the back wages which will serve the ends of justice. Accordingly it is hereby.

ORDERED

that let "Award" be and the same is passed in favour of the workman concerned. Send the copies of the award to the Ministry of Labour, Government. of India, New Delhi for information and needful. The reference is accordingly disposed of.

MD. SARFARAZ KHAN, Presiding Officer

नई दिल्ली, 7 फरवरी, 2007

का.आ. 654.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार डब्लू. सी. एल. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण जबलपुर के पंचाट (संदर्भ संख्या 115/1997) को प्रकाशित करती है, जो केन्द्रीय सरकार को 7-2-2007 को प्राप्त हुआ था ।

[सं. एल-22012/73/1996-आई आर (सी II)]

अजय कुमार गौड़, डेस्क अधिकारी

New Delhi, the 7th February, 2007

S.O. 654.— In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 115/97) of the Central Government Indus. Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of WCL, and their workman, which was received by the Central Government on 7-2-2007.

[No. L-22012/73/1996-IR(C-II)]

AJAY KUMAR GAUR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

No. CGIT/LC/R/115/97
PRESIDING OFFICER: SHRI C.M. SINGH

Shri Siptooram, S/o Shri Jaddooram,
General Secretary,
S.K.M.S (AITUC),
Post Eklehra,
Distt. Chhindwara ...Workman/Union

Versus

The General Manager,
Rawanwara Colliery, WCL
Post Parasia, Distt. Chhindwara (MP) ...Management

AWARD

Passed on this 22nd day of January-2006

1. The Government of India, Ministry of Labour vide its Notification No. L-22012/73/96-IR (C-II) dated 30-4-97 has referred the following dispute for adjudication by this tribunal:—

> "Whether the action of the management of Rawanwara Colliery of WCL, Pench Area in dismissing Shri Siptooram S/o jaddooram, Driver from services w.e.f. 20-10-92 is legal and justified? If not, to what relief is the workman entitled ?"

2. After the reference order was received, it was duly registered on 12-5-97 and notices were issued to the parties to file their respective statements of claim. Inspite of sufficient service of notice on the workman/Union, the workman/Union failed to put in appearance and to file statement of claim. Therefore vide order dated 16-3-05 of this tribunal, the case proceeded exparte against the workman/Union.

3. The management filed its written statement. The case in brief is that workman Shri Siptooram was working as Driver in /Rawanwara colliery of WCL, Pench Area. He was issued with a chargesheet No. 1222 dated 16-9-92 under clause 18(1)(m):—

> "conviction in any court of law for any criminal offences involving moral turpitude."

The state of Madhya Pradesh through police station Chhindwara instituted a criminal case against the workman Shri Siptooram S/o Jaddooram and one another person namely Sukal S/o Triveni on the charges under Sec-395/397 of IPC. That the above criminal case was tried before the Court of Sessions Judge, Chhindwara vide Session Trial No. 42/85. The learned Sessions Judge vide judgement dated 10-10-85 held that on the facts and circumstances the accused was convicted under Sec-395 of the IPC and each of them was sentenced to undergo RI for a period of 5 years. Being aggrieved by the said order of conviction and sentence, the workman submitted criminal appeal before the Honourable High Court of MP at Jabalpur. that the High Court dismissed the appeal by confirming the judgement given by the Sessions Judge Chhindwara. Being aggrieved by the said order of the Hon'ble High Court, the workman filed criminal appeal No. 483 of 92 (arising out of SLP) (Criminal) No. 1264 of 1992 before the Hon'ble Supreme Court of India. The original SLP was filed by the two persons namely by Shri Siptooram and Sukal. At the stage of admission, the Honourable Supreme Court dismissed the SLP so far as Siptooram was concerned. The workman has undergone the punishment awarded by Hon'ble Session Judge. Chhindwara in Sessions Trial No. 42/85. The workman was issued with a chargesheet No. 1222 dated 16-9-92 through Superintendent Distt. Jail, Chhindwara. The representatives of Union made representations in connections with the chargesheet. The workman submitted his reply on 22-9-92 on the said chargesheet. The reply was found unsatisfactory. The Competent Authority decided to conduct a DE. Accordingly vide order No. 1270 dated 27-9-92 Shri Ratnesh Singh, the then Sr. Under Manager, Rawanwara colliery was appointed as Enquiry Officer. He conducted the DE on the aforesaid chargesheet. The Enquiry Officer submitted his enquiry report holding workman guilty of the charges leveled against him. The Competent Authority after having satisfied with the enquiry and findings thereof vide order NO. 1346 dated 20-10-92 dismissed the services of the workman on the ground that he has been convicted by the competent court of law and therefore he cannot be retained in Government service. The enquiry was conducted legally and properly against

the workman. It is prayed by the management that the action of the management in dismissing the services of the workman be held as legal, proper and justified.

4. As the case proceeded exparte agaisnt the workman, there is no evidence on record in support of workman's case.

5. The management filed affidavit of Shri H.K. Singh, the then posted as Dy. CPM in WCL, Pench Area.

6. I have heard ShriA.K. Shashi, Advocate for the management. I have very carefully gone through the entire evidence on record.

7. The case of the management stands fully established from the uncontroverted and unchallenged affidavit of management's witness shri H.K. Singh. Against the above, there is no evidence from the side of the workman as the case proceeded exparte against the workman. In view of the above, the reference deserves to be decided in favour of the management and agaisnt the workman. But considering the facts and circumstances of the case, I am of the view that the parties should be directed to bear their own costs of this reference.

8. It is, therefore, held that the action of the management of Rawanwara Colliery of WCL, Pench Area in dismissing Shri Siptooram S/o Jaddooram; Driver from services w.e.f. 20-10-92 is legal and justified and consequently the workman is not entitled to any relief. The parties shall bear their own costs of this reference. The reference is decided accordingly.

9. Copy of the award be sent to the Government of India, Ministry of Labour as per rules.

C. M. SINGH, Presiding Officer

नई दिल्ली, 7 फरवरी, 2007

का.आ. 655.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार इंडियन इन्स्टीयुट आफ पुलस्स रिसर्च के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय कानपुर के पंचाट (संदर्भ संख्या 8/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 7-2-2007 को प्राप्त हुआ था ।

[सं. एल-42012/44/2000-आई आर (सी-II)]

अजय कुमार गौड़, डेस्क अधिकारी

New Delhi, the 7th February, 2007

S.O. 655.— In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 8/2001) of the Central Government Industrial Tribunal-cum-Labour Court, Kanpur as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of Indian Institute of Pulses Research and their workman, received by the Central Government on 7-2-2007.

[No. L-42012/44/2000-IR(C-II)]
AJAY KUMAR GAUR, Desk Officer

ANNEXURE

BEFORE SRI SURESH CHANDRA, PRESIDING OFFICER CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, KANPUR.

I.D. NO. 8 OF 2001

In the matter of dispute between:

Sri Kailash Chandra Sharma,
S/o Sri Basudev Sharma
C/o Sri Ganesh Shankar Tripathi
128/2/102, Yashoda Nagar
Kanpur, U.P.

and

The Director
Indian Institute of Pulses Research
G.T. Road, Kalyanpur,
Kanpur, U.P.

AWARD

1. Central Government, Ministry of Labour, New Delhi *vide* Notification No. L-42012/44/2000-IR (C-II) dated 12-6-2001 has referred the present dispute for adjudication as under —

> "क्या डाइरेक्टर, भारतीय दलहन अनुसंधान संस्थान, कानपुर द्वारा श्री कैलाश चन्द्र शर्मा को दिनांक 20-10-1997 से सेवा से निष्कासित करना न्यायोचित है? यदि नहीं तो सम्बन्धित कर्मकार किस अनुतोष का हकदार है?"

2. The case of the workman, in short, as set up by him in his Statement of Claim is that he is a workman under Section 2 (s) of I.D. Act, 1947 and management is an industry as provided under Sec. 2 (j) of I.D. Act, 1947. It has further been pleaded by the workman that he is a member of Handicapped employees, as his name was sponsored for regular employement under the opposite party by Ministry of Labour, Government of India, Employment and Training Directorate, Handicapped Trade Re-employment Centre, A.T.I.Compound, Kanpur, to the opposite party for hs recruitment at the post of Group IV employee. It has further been pleaded that under reservation policy of Government of India 8 percent employees have been reserved to be appointed under handicap quota for the vacancy lying vacant under any department of Government of Inda. It has further been pleaded by workman that he has called for interview by the management of Indian Institute of Pulses Research (IIPR) for providing him regular and permanent employment under handicap quota fixed by Government of India on 15-7-97. Workman has further pleaded that opposite party has taken work from him w.e.f. 15-7-97 continuously and his attendance was marked on a

plain paper by the authorities of IIPR, still despite assurances given by authorities of the opposite party he was not made permanent by them. Workman has further pleaded that the opposite party suddenly terminated his services w.e.f. 20-10-97 without any reasons, without any rhyme and also without any notice. It has specially been pleaded by the workman the he was removed from the services of opposite party only for the reasons that he reaised a demand for his regularization and permanency. It has also been pleaded by workman that after his removal from services of opposite party, the opposite party engaged several fresh hands inplace of him, thus the opposite party has acted in such a manner which may deprive the workman of completing 240 days of continuous services within the meaning of Section 25 (B) of I.D. Act, 1947. Workman has also pleaded that action of management is by way of unfair labour practice.

3. Workamn has further pleaded that his work and conduct remained ever satisfactory. The work and post against which the workman was employed by opposite party was of permanent and regular nature. the workman has been terminated and retrenched by way of illegal retrenchemtn. He has further alleged that the management has not paid his wages for holidays and that several fresh hands were inducted in the services of the management on permanent basis which attracts provisions of Section 25 (T), 25 (U), 2 (ra) of I.D. Act, 1947 amounting to unfair labour proactice. Under these circumstances it has been prayed that the workman be reinstated in the services of opposite party with full back wages, continuity of service together with seniority and consequential benefits.

4. Management has contested the claim of the workman on variety of grounds, interalia, alleging in their written statemet that the opposite party is not an industry as defined under Section 2(j) of I.D. Act, 1947, being discharging the sovereign functions of Central Government. It has also been disputed by the opposite party that they have never appointed the concerned workman directly in their employmet. Rather it has been specifically pleaded by the opposite party in their written statement before this tribunal in the present case, relying upon decision of this Tribunal rendered in I.D. Case Nos. 197/1999, 198/1999 199/1999, 200/1999, 201/1999, 202/1999, 203/1999, 204/1999, 208/1999, 209/1999, 210/1999 and 211/1999 on 27-12-2005 whereby vide para 10 of the Award the Tribunal has particualry observed that the opposite party has not pressed the point that opposite party is not an industry, therefore it is held relying upon the Award of the Tribunal that the opposite party fully covered within the meaning of term 'industry' as defined under the provisions of Section 2(j) of I.D. Act, 1947.

5. Having come to a conclusion that opposite party is an industry, now it will be seen if the termination of the services of workman as pleaded by him is in violation of provisions of Section 25 (B), 25 (F), 25(G) and 25(H) read together with the provisions of Section 25 (U), 25(T) and 2(ra) of I.D. Act, 1947 together with I.D. Rules 76, 77 and 78 and also that as to whether or not workman can be considered for his regular appointment being a candidate of handicap in accordance with extra ordinary Gazette Part II issued and published by Government of India on 1-1-1996, copy of which was filled by the authorized representative for the workman during the course of arguments.

6. A bare perusal of Gazette Notification issued by Government of India it is absolutely clear that Government of India has made provisions for reservations for public employment at the rate of 5 percent against the vacancy falling due under any establishment.

7. To clarify the abaove position the Director of IIPR was called to appear and to satisfy the Tribunal on the above points. When the Director of IIPR failed to satisfy the Tribunal on the above issue the opposite party was directed to file roaster indicating the reservation of candidates formulated by the Government of India. Officers of the opposite party brought the relevant records before the Tribunal for its perusal and after going through the records made available before the Tribunal, the Tribunal after examining the records of the case filed by the management before the tribunal it came to the conclusion that the opposite party is not adhering the reservation policies in respect of handicapped persons. It has specifically been pointed out by authorized representatives for workman that there remains 300 vacancies in Group IV under opposite party even then the notification of the Government cannot be deemed to have been served in its correct perspective, if it is so, atleast 15 candidates must be there against handicap quota, of the notification of Government of India as quoted above, in the employment of opposite party.

8. From this point of view it is held that the action of management cannot be held to be justified and legal when they terminated the services of the concerned workman w.e.f. 20-10-1997 when they removed him in gross violation of the Gazette Notification of Government of India published on 1-1-1996.

9. In the end it is held that the action of the opposite party in removing the services of concerned workman w.e.f. 20-10-97 canot be held to be justified and legal. Accordingly workman is held to be reinstated in the services of opposite party at the post from where he was removed from the services by the opposite party. Workman is further held entitled for his full back wages and continuity of service together with all consequential benefits attached with the post. Management is further directed to comply with the Award of this Tribunal within 30 days from the date of publication of this Award failing which the workman be held entitled to interest @ 10% p.a. pendant elite and future interest.

10. Reference is therefore answered accordingly in favour of the workman and against the management of Indian Institute of Pulsues Research, Kanpur.

SURESH CHANDRA, Presiding Officer

नई दिल्ली, 7 फरवरी, 2007

का.आ. 656.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार विशाखापत्तनम पोर्ट ट्रस्ट के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध मे निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, हैदराबाद के पंचाट (संदर्भ संख्या 96/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 7-2-2007 को प्राप्त हुआ था ।

[सं. एल-34011/20/2004-आईआर (बी-II)]

राजिन्द्र कुमार, डेस्क अधिकारी

New Delhi, the 7th February, 2007

S.O. 656.— In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 96/2004) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Hyderabad as shown in the Annexure, in the Industrial Dispute between the management of Visakhapatnam Port Trust and their workmen, received by the Central Government on 7-2-2007.

[No. L-34011/20/2004-IR(B-II)]

RAJINDER KUMAR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT HYDERABAD

PRESENT:—SHRI T. RAMCHANDRA REDDY, Presiding Officer

Dated the 31st day of January, 2007

INDUSTRIAL DISPUTE NO. 96/2004

BETWEEN

The General Secretary,
Visakhapatnam Harbour & Port Workers Union,
D.No. 26-26-27, Harbour Approach Raod,
Visakhapatnam—530 001 ....Petitioner

AND

The Chairman,
Visakhapatnam Port Trust,
Port Area, Visakhapatnam-530 035. ....Respondent

APPEARANCES:

For the Petitoner : Shri K. Balakrishna, Advocate

For the Respondent : Sri D.V. Subba Rao & Sri D.V.S.S. Somayajulu, Advocates

AWARD

This is an industrial dispute raised by the General Secretary, Visakhapatnam Harbour & Port Workers Union, Visakhapatnam on behalf of the workman Sri N. Srinivasa Rao and their union members against the Chairman, Visakhapatnam Port Trust which was referred by the Government of India, Ministry of Labour and Employment for adjudication by its order No. L-34011/20/2004-IR (B-II) dated 28-6-2004 in exercise of powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 with the following schedule.

SCHEDULE

"Whether the action of the management of M/s Visakhapatnam Port Trust in reducing the pay of Shri N. Srinivasa Rao, Khallasi (Sh) O. R. Section, C.M.E's Department from Rs. 4,750 to Rs. 3,700 per month for a period of five years in proportionate to the charges levelled against him, even if it is true is legal and justified ? If not, what relief the Visakhapatnam Harbour and Port Workers's Union which has raised the dispute is entitled to?"

2. The General Secretary has filed his claim statement on behalf of the workman stating that a charge memo No. E/M/PC/7810/1854 was issued against the workman alleging that while he was functioning as Kalasi Shore in O.R.S was allotted a quarter No. T-1/24/812 at Salagramapuram Port Quarters, Visakhapatnam. On 4-6-99 at about 10.15 p.m. when the premises was inspected by the officials they found rearing 4 buffaloes and called for the explanation. The workman has given his explanation dated 22-7-99, but the Disciplinary Authority has imposed a minor punishment of withholding of one increment for three months vide order dated 11-10-99 apart from the cancellation of allotment of quarter.

3. It is further submitted that the workman made a representation and he was allowed to continue impliedly till 3-5-2000. The workman has vacated on 4-5-2000. It is further submitted that with the same charge once again a charge memo dated 6-6-2000 was issued for which the Petitioner workman has given explanation but Respondent has instituted a domestic enquiry alleging that he has violated the Regulation 14 of V.P.E. (Allotment of Residence) Regulations 1968 and Regulation 3 (1) of V.P.E. (Conduct) Regulations 1964 which is general conduct being invited from one and all sundry employees of the Management.

4. It is further submitted that the enquiry was conducted against the principles of natural justice holding that the original allegation of rearing buffaloes held not to be proved and second part of the charge which is not concerned to the workman is held to be proved. Basing on the enquiry report the Disciplinary Authority has imposed punishment *vide* order dated 27-3-2001 reducing him to the time scale to the minimum Rs.3,700 from Rs. 4,705 drawn

by the workman for a period of five years. The workman has suffered continuously a loss of Rs. 2,500 per month from the date of the order 27-3-2001. It is further submitted that the workman was also placed under suspension w.e.f. 4-5-2000. It is further submitted that the workman preferred an appeal to the Appellate Authority dated 11-5-2001 which was rejected without giving reasons. The workman also filed review which was also rejected by the order dated 22-11-2003. The Petitioner sought the relief to set aside the order dated 27-3-2001, 21-6-2001 and 22-1-2003 and restored to the time scale drawn by him on the date of the punishment with all allowances.

5. The Respondent Management filed its counter admitting that the workman was appointed as Kalasi shore in O.R. section of Mechanical Engineering Department on 11-8-1990 and working in the same cadre. It is admitted that he was allotted the quarter and the same was cancelled by order dated 3-7-2000 since the workman was found to have violated the terms and conditions of the allotment by rearing four buffaloes in the back yard of his quarter in violation of allotment rule No.14 of V.P.E's (Bank audit report) Regulations, 1968. It is also admitted that the workman was imposed with minor penalty of stoppage of increment for three months without cumulative effect.

6. It is further submitted that the allotment of the quarter was cancelled on 3-7-1999. The workman has submitted his representation on 2-8-1999 for retention of the quarter for two months in view of his sister's marriage. Further the workman did not vacate and retained for a period of 10 months till May, 2000 on one pretext or other, even though no permission was accorded.

7. It is further submitted that vigilance made discrete inquiries and found that the workman in collusion with his sister Mrs. Appalanarasamma who is residing with him in the quarter was indulging in utilizing the quarter for unlawful activities and abetting the other allottees for subletting the quarters allotted to them. Therefore, the workman was issued memo dated 29-4-2000 directing him to vacate the quarter subject to Disciplinary Action and accordingly he vacated on 4-5-2000. A charge sheet was issued dated 6-6-2000 for having failed to vacate the quarter till 4-5-2000 despite its cancellation on 3-7-99 and for having indulged in unlawful activities. The workman has denied the charge in his explanation dated 26-6-2000. An enquiry was ordered on his explanation *vide* proceedings dated 15-7-2000. It is further submitted that the domestic enquiry was held in a proper way giving reasonable opportunity to defend himself. The Disciplinary Authority taking into consideration of the enquiry report imposed penalty as stated above. The workman was placed under suspension on 4-5-2000 and restored back on 13-11-2000. It is further submitted that the appeal preferred to the Appellate Authority was rejected by detailed order dated 27-3-2001. The reviewing authority also rejected by detailed order dated 22-11-2003 on considering the record.

8. The Petitioner's counsel filed a memo on 8-1-2006 stating that he is not disputing the domestic enquiry held by the Management. Arguments heard from both sides under Sec.11-A of Industrial Disputes Act, 1947.

9. It is not in dispute that the workman was allotted a quarter No.T 1/24/812 block No. 24 at Salagramapuram Port quarters and he was residing with his sister and father. The officials of the Respondent Management found rearing four buffaloes at the back of the quarters and called for the explanation of the workman. The workman has submitted his explanation to the Disciplinary Authority. Further he was imposed minor punishment of withholding the increment for three months by its order 11-10-1999 apart from cancellation of the quarter. It is also not in dispute that the workman has submitted a representation for continuation of the quarter for retention of the quarter on certain grounds. While the representation is pending, a chargesheet dated 6-6-2000 was issued against the workman alleging that the workman failed to vacate the quarter till 4-5-2000 and further alleged that he indulged in unlawful activities in collusion with; his sister in utilizing the quarter for unlawful activities and abetting the other allottees for subletting the quarter. The workman submitted his explanation further, an enquiry was ordered on the charges. On the enquiry report and on considering the explanation of the workman the said punishment was imposed.

10. The Learned Counsel for the workman contended that the workman was imposed a minor punishment for rearing the buffaloes in the backyard of his quarter and for the same charge he was also again punished by issuing a second chargesheet and the imputations made in the second chargesheet shows the allegations made in the first chargesheet. It is further contended that absolutely there is no evidence on record to substantiate the charges and the Respondent Management without deciding on the representation made; by the workman for retention of quarter has issued a charge- sheet and further contended that the workman has vacated as per the directions given by the Management on 4-5-2000 and further contended that the allegations made in the charge sheet comes under general category under Rule 3 of VPE (Conduct) Regulations, 1964 and there is no specific violation of any rule and the general rule itself is not misconduct under any of the rules specified. As such penalty cannot be imposed on such conduct.

11. On the other hand it is contended by the Respondent's counsel the workman did not vacate the quarter inspite of cancellation and retained for 10 months and the workman is not entitled for retention simply because he made a representation for continuation in the quarter on one pretext or other and further contended that the sister of the workman who is residing with him utilizing the quarter for unlawful activities and abetting and encouraging other allottees for subletting and the enquiry conducted to the allegation was held to be proved and further contended

that when the domestic enquiry was not disputed, the scope of this Tribunal for judicial review is limited and it cannot sit and decide as an Appellate Authority and further pointed out that the Disciplinary Authority is the sole Judge of the facts and this Tribunal cannot interfere and further point out that the punishment imposed is in commensurate with the gravity of the charges and relied upon 2000 (7) SCC page 517, Janatha Bazar (South Kanar Central Cooperative Wholesale Stores Ltd.,) and others *V/s.* Secretary, Sahakari Noukarara Sangha and others and also relied upon B.C. Chaturveedhi *V/s.* Union of India reported in 1995(5) SLR 778 and 2002 (5) SLR Jaganmohan Rao *V/s.* State of Andhra Pradesh page 521 and Mahindra & Mahindra Ltd *V/s.* Narawadi reported in 2005 (3) SCC page 134.

12. In view of Sec. 11 of Industrial Disputes Act, 1947 it is settled law that in course of adjudication of industrial dispute referred, the Tribunal at the first instance it has to consider whether the domestic enquiry held by the employer is proper and valid. After holding domestic enquiry as valid, or conceding the domestic enquiry as valid, matter has to be considered under Sec. 11 of Industrial Disputes Act, 1947. This Tribunal has to satisfy that the order passed by the Disciplinary Authority is justified. If it comes to the conclusion that the punishment imposed by the Disciplinary Authority is not justified this Tribunal can set aside the order and modify the same as it deem fit including the lesser punishment having regard to the circumstances of the case. However, the proviso of Sec. 11 of Industrial Disputes Act, 1947 provides to rely only on the material already on record and it shall not take any fresh evidence. It should be noted this Tribunal has got power to re-appraise the evidence in the domestic enquiry and satisfy itself whether such evidence relied by the Disciplinary Authority proved the said misconduct lodged against the workman.

13. It is contended by the workman that he was put to double jeo-parady that he was punished for the same misconduct twice for rearing cattle at the allotted quarter. It is no doubt true that the workman was punished for rearing the she-buffaloes in the allotted quarter after giving show cause notice by cancelling the quarter. The domestic enquiry conducted is in respect of chargesheet that is, for retaining the quarter for 10 months and allowing unlawful activities by the sister of the workman. On perusing the chargesheet it only shows that the previous allegations are stated only as introductory to the charge and the previous allegations were not made the subject matter of the charge. While conveying the imputations the previous charges was referred. But it was not made subject matter of the charge nor any evidence was collected to that effect. Therefore, the contention of the Petitioner that he was punished for the same charge is not tenable.

14. In respect of the chargesheet, the allegations against the workman is that he was expected to vacate the quarter immediately consequent upon the cancellation of the allotment order dated 3-7-99, but retained the same for 10 months and the second charge is that the workman utilized his quarter for unlawful business activities and his sister was encouraging other allottees for subletting the quarters. The Enquiry Officer during the enquiry has examined only one witness Mr. Murthy, Vigilance Assistant as PW I and concluded that the workman has vacated the quarter soon after disposal of his representation seeking for retention of the quarter within 3 days from the receipt of the letter. Hence, that charge was not proved. However, the Enquiry Officer held second part of the charge that the quarter being utilized for unlawful activities by the sister of the workman was held to be proved observing, "Sri P. M. Raju, AXE (Civil) in the capacity of Chairman (DE.I) Committee to identify subletting/illegal occupation of quarters has interviewed (as per SE.6) the family members of C.O.(Charged Officer), the family members of C.O. has stated that they were not aware of the activities carried out by the C.O.'s sister Appalanarasamma alias Appachi. The father of the C.O. has stated that one or two persons approached him for realisation of advance paid to Appalanarasamma alias Appachi for subletting the quarters. Further, he has stated that he has asked his daughter to go away from the quarter to avoid any further complications, (SE.6) after he came to know the activities carried out by his daughter. This statement itself proves that the Appalanarasamma alias Appachi was staying with C.O. in the same quarters along with his other family members."

15. In respect of the first part of the charge the Enquiry Officer held obviously that the representation made by the workman was disposed of asking him to vacate within certain period and accordingly he vacated the same. After cancellation of the quarter the workman made a representation for retention of the quarter for some more time. When the representation is pending, the workman has not vacated the quarter. The workman is entitled for retention. Since his representation was not considered but he vacated as per orders issued by the Management. The Management has taken about 10 months for considering the representation of the workman. It should be noted that under the rules the Management has got the power to impose penal rent for retention of the quarter. The Management without specifying the date of eviction has charged the workman for unlawful retention as such the Enquiry Officer has rightly held that the charge is not proved.

16. In respect of the second part of the chargesheet the entire evidence against the workman is that one Sri P. M. Raju has interviewed the father of the workman on a videograph and since the father of the workman has stated that one or two persons approached for realization of advance paid to his daughter Appalanarasamma with regard to subletting the quarters in that area, he asked his daughter to go away. The Enquiry Officer did not examine

neither the father of the workman nor the sister of the workman during the enquiry.

17. It should be noted that the workman has denied that he has allowed his sister in respect of misutilization of the quarter. It should be noted that the allegation is that the sister of the workman is encouraging the allottees of other quarters to sublease in favour of third persons. The allottees of the quarters who misuses the quarters by way of subleasing are liable for eviction by the Management. It is improbable for the allottees of the quarters to sublease on the advise of the sister of the workman. The Enquiry Officer has not examined the allottees who were said to be encouraged by the sister of the workman for subleasing their respective quarters. The evidence produced before, the Enquiry Officer will not establish the second part of the charge. The Enquiry Officer is carried away by the videograph statement of the father of the workman. Absolutely there is no evidence to show that the workman has allowed his sister to do unlawful activities, encouraging the other allottees for subletting their quarters. When there is no evidence on record to substantiate the charge in the domestic enquiry this Tribunal has got power to set aside the order of the Disciplinary Authority.

18. The workman was charged under Sec. 3(1) of Visakhapatnam Port Trust (Conduct)Regulations, 1964 which is as follows: "General: (1) Every employee shall at all time maintain absolute integrity and devotional to duty" Visakhapatnam Port Trust (Conduct) Regulations provided specific rules regarding the violations amounting to misconduct. But the workman was punished under general clause of the misconduct and there is no specific violation of the rules or misconduct. Clause 3(1) specifies a norm of behaviour but does not specify that its violation will constitute misconduct. There is no provision in the regulation that violation of the general behaviour would even amounts to misconduct in any provisions of the regulations. It is held in 1984(3) SCC page 360 A. L. Kalra *V/s.* Project and Equipment Corporation of India Ltd., at page 330 and at para 22 as follows: "Rule 4 bears the heading 'General'. Rule 5 bears the heading 'Misconduct'. The draftsmen of the 1975 Rules made a clear distinction about what would constitute misconduct. A general expectation of a certain decent behaviour in respect of employees keeping in view Corporation culture may be a moral or ethical expectation. Failure to keep to such high standard of moral, ethical or decorous behaviour befitting an officer of the company by itself cannot constitute misconduct unless the specific conduct falls in any of the enumerated misconduct in Rule 5. Any attempt to telescope Rule 4 into Rule 5 must be looked upon with apprehension because Rule 4 is vague and of a general nature and what is unbecoming of a public servant may vary with individuals and expose employees to vagaries of subjective evaluation. What in a given context would constitute conduct unbecoming of a public servant to be treated as misconduct would expose a grey area not amenable to objective evaluation. Where misconduct when proved entails penal consequences, it is obligatory on the employer to specify and if necessary define it with precision and accuracy so that any *ex-post facto* interpretation of some incident may not be camouflaged as misconduct. It is not necessary to dilate on this point in view of a recent decision of this Court in Glaxo Laboratories (I) Ltd. *Vs.* Presiding Officer, Labour Court, Meerut where this Court held that "everything which is required to be prescribed has to be prescribed with precision and no argument can be entertained that something not prescribed can yet be taken into account as varying what is prescribed. In short it cannot be left to the vagaries of Management to say *ex-post facto* that some acts of omission or commission nowhere found to be enumerated in the relevant standing order is nonetheless a misconduct not strictly falling within the enumerated misconduct in the relevant standing order but yet 5 a misconduct for the purpose of imposing a penalty". Rule 4 styled as 'General' specifies a norm of behaviour but does not specify that its violation will constitute misconduct. In Rule 5, it is nowhere stated that anything violative of Rule 4 would be *per se* a misconduct in any of the sub-clauses of Rule 5 which specifies misconduct. It should therefore appear that even if the facts alleged in two heads of charges are accepted as wholly proved, yet that would not constitute misconduct as prescribed in Rule 5 and no penalty can be imposed for such conduct. It may as well be mentioned that Rule 125 which prescribes penalties specifically provides that any of the penalties therein mentioned can be imposed on an employee for misconduct committed by him. Rule 4 does not specify a misconduct."

19. In view of the circumstances I hold the action of the Respondent Management in reducing the pay of the workman Sri N. Srinivasa Rao, Kalasi from Rs 4705 to Rs.3,700 p.m. for a period of five years is not justified and the punishment imposed by the Management is set aside and the workman is entitled for all the benefits as if there is no such punishment, consequent to the setting aside of the punishment, with retrospective effect.

Award passed accordingly. Transmit.

Dictated to Smt. P. Phani Gowri, Personal Assistant transcribed by her and corrected by me on this the 31st day of January, 2007.

T. RAMACHANDRA REDDY, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner :	Witnesses examined for the Respondent :
NIL	NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 7 फरवरी, 2007

का.आ. 657.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सेन्ट्रल बैंक ऑफ इंडिया के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण, पटना के पंचाट (संदर्भ संख्या 8 (सी)/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 7-2-2007 को प्राप्त हुआ था ।

[सं. एल-12012/19/2005-आई.आर. (बी-II)]

राजिन्द्र कुमार, डेस्क अधिकारी

New Delhi, the 7th February, 2007

S.O. 657.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 8 (C)/ 2005) of the Industrial Tribunal Patna (Bihar) as shown in the Annexure in the Industrial Dispute between the management of Central Bank of India and their workmen, received by the Central Government on 07-02-2007.

[No. L-12012/19/2005-IR (B-II)]

RAJINDER KUMAR, Desk Officer

ANNEXURE

BEFORE THE PRESIDING OFFICER, INDUSTRIAL TRIBUNAL, PATNA

Reference Case No. 8 (C) of 2005

Between the Management of Central Bank of India, Kosi Colony Saharsa and their workman, Shiv Charan Ram, Village-Dan-Nagar, Chhoti Kali Asthan, Ward No. 3 Khagaria, Bihar.

For the Management : Sri Jai Shankar Prasad, Asst. Manager, Central Bank of India, Regional Office, Saharsa.

For the Workmen : Workmen Shri Shiv Charan Ram himself.

PRESENT

Vasudeo Ram, Presiding Officer,

Industrial Tribunal, Patna

AWARD

Patna, Dated the 31st January, 2007

By adjudication Order No. L-12012/19/2005-IR (B-II) dated the 17th June, 2005 Govt. of India Ministry of Labour, New Delhi under clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 has referred the following dispute between the management of Central Bank of India, Kosi Colony, Saharsa and their workman Shri Shiv Charan Ram, village-Dan Nagar, Chhoti Kali Asthan, Ward No. 3, Khagaria (Bihar) to this Tribunal for adjudication on the following :

> "Whether the action of the management of Central Bank of India, Saharsa in terminating the services of Shri Shiv Charan Ram, Village Dan Nagar, Chhoti Kali Asthan, Ward No. 3, Khagaria, Distt. Khagaria (Bihar) by way of Dismissal w.e.f. 30-6-1999 is legal or justified ? If not to what relief the workman is entitled ?".

2. On receipt of the reference notices were issued to the parties. The parties appeared and filed their written statements. The contention of the workman is that he was appointed on compassionate basis and he joined on 18-11-1991 on the post of peon in Central Bank of India, Saharsa. He applied for house building loan of Rs. 30,000. The Bank gave only Rs. 16083 in place of Rs. 30,000. The workman asked as to why he had been given Rs. 16083 only in place of Rs. 30,000 upon which the Bank Manager replied that the remaining amount was adjusted against the previous loan taken by the workman. The workman told that he never took loan previously upon which the Bank Manager chided him away. The workman filed complaint of this incident to District Co-operative Officer, Khagaria in writing. The Bank Manager became ennoyed and terminated his services. The claim of the workman is that his services has been illegally terminated and hence he be reinstated on his present post.

3. The contention of the management, in short, is that the workman was posted at Bargaon Branch of Central Bank of India. The said branch was temporarily closed and the workman was deputed at Khagaria Branch of the Bank as stop gap arrangement. Again when Bargaon Branch became operational the workman was relieved from Khagaria Branch to join at Bargaon Branch but the workman neither joined there nor gave any information to Bargaon Branch and remined absent unauthorisedly. A departmental proceeding was duly initiated against the workman. On 7-1-1999 the workman appeared and participated in the departmental enquiry and accepted the charges levelled against him and thus the charges levelled against him stood proved. Accordingly, the workman was inflicted the punishment of dismissal with immediate effect. The management contends that full opportunity to the workman was given and the rules of natural justice were followed in conducting the departmental proceeding against the workman. According, to the management the workman is not entitled to any relief and the award be given in favour of the management.

4. Upon the pleadings of the parties the following points arise out for decision :

(i) Whether termination of services by way of dismissal of the workman by the management of Central Bank of India is legal and justified ?

(ii) To what relief or reliefs the workman is entitled ?

FINDINGS

Point No. (i) :

5. Two witnesses namely Rishi Kumar Sharma (M.W. 1) and Sudhir Jha (MW2) have been examined on behalf of the management. Both the witnesses are the Officers in Regional Office of Central Bank of India at Saharsa. M.W. 1 is the Manager in the Human Resources Department while M.W. 2 is Asst. Manager. Besides oral evidence certain documentary evidence have also been adduced on behalf of the management. As against that the workman Shiv Charan Ram (W.W.1) alone has deposed for himself. There is no dispute on the point that workman Shiv Charan Ram was appointed on the post of peon on 18-11-1991 on compassionate grounds in Central Bank of India, Saharsa. From the statement of the workman (WW1) appears that he was posted in Bargaon Branch of the Bank in the year 1996. From the statement of MW1 it transpires that in the year, 1997 Bargaon Branch was to be shifted to Alamnagar. Hence the workman was temporarily transferred to Khagaria Branch. The workman in his cross-examination has admitted that in the year 1997 he was transferred to Khagaria Branch with the condition that he will be transferred back to Bargaon branch, when the said branch will resume functioning The workman in his cross-examination has also admitted that when Bargaon branch of the Bank resumed functioning (at Alamnagar) he was relieved on 8-9-1997 from Khagaria to join in Bargaon branch. The management has filed the copy of memo of relieving dated 8-9-1997 (Ext. M/2). The relieving was done following the letter dated 5-9-1997 of Regional Office, Saharsa to Branch Officer, Khagaria (Ext. M/3) M.W. 1 has stated that Shiv Charan Ram refused to receive the memo of relieving. The workman in his statement before this Tribunal has admitted to have refused receiving the memo of relievings.

6. The management has filed the copy of letter dated 8-9-1997 sent from Khagaria Branch to Regional Office, Saharsa (Ext. M/1) to show that when the workman refused to receive the relieving letter a copy of it was displayed on notice Board while a copy of the same was sent to the workman at his residence by registered post. MW1 has stated that Bargaon branch also sent letter to the workman but he refused to receive the same. On behalf of the management copy of charge sheet dated 15-9-98 has been filed (Ext. M/6) and M.W.1 has stated that a copy of it was given to the workman. The workman in his statement before this Tribunal has admitted to have received the copy of charge-sheet. Ext. M/6 (charge sheet) shows that two charges were levelled against the workman, one that he was relieved on 8-9-97 from Khagaria branch to join at Bargaon branch but he (the workman) neither joined at Bargaon branch nor sent any information/application of his absence. The other charge was that Bargaon branch sent letter through registered post but the workman refused to receive the same. Another letter dated 18-6-98 was sent through registered post to the workman from Regional Office of the Bank but the workman refused to receive the same and the letters returned unserved. From the memo dated 3-5-99 (Ext. M/7) sent by the disciplinary authority to the workman it appears that the workman appeared on 7-1-99 before the Enquiry Officer. He admitted the charges levelled against him, which is admitted by the workman in his deposition before this Tribunal but he says that he was forced to admit the guilt. There is no evidence to show that he was forced to admit the charges. MW.2 has stated that the memo dated 3-5-99 was sent to the workman on the residential address by registered post. The photo copy of Registered envelop (Ext. M/5) shows that it was sent on 12-5-99 and the refusal was noted on 18-5-99 and returned. By the memo dated 3-5-99 (Ext. M/7) it appears that the Enquiry Officer submitted findings on 13-2-99 to disciplinary authority for taking further action. The copy of finding alongwith the memo (Ext. M/7) was sent by the disciplinary authority to the workman to submit representation or submission within seven days of receipt of the same failing which it was to be presumed that the workman had nothing to represent or submit and further action will be taken. As already mentioned above the workman refused to receive the registered letter. Thereafter it appears that the Disciplinary Authority passed orders on 30-6-99 (Ext. M/9) and on the same date sent it to Bargaon (Alam-Nagar) Branch vide memo (Ext. M/8) to be served upon the workman. After 5 years of dismissal the workman filed representation before the managemenr (Ext. M/11) and thereafter filed complaint before the Asst. Labour Commissioner (Central). The management submitted written statement (Ext. M/10) on 3-11-2004. The workman filed rejoinder on 11-1-2005 (Ext. M/12) upon which the case was registered.

7. The workman has stated that one Dilip Kumar Deputy Accountant of Khagaria Branch had drawn money in the name of the workman. This fact came to his knowledge in 1999 when the workman applied for loan for construction of house. The workman gave information to the management. The management told that the judiciary will decide it. Then the workman filed case before the learned C.J.M. of Khagaria. The workman has further stated that the management pressurised him for compromise but he (the workman) refused to compromise and hence he was transferred to Bargaon Brach from Khagaria. No document concerning the said case has been filed by the workman. The incidence of alleged pressurising for compromise, according to the workman is of the year 1999 whereas the workman was transferred from Khagaria Branch on 8-9-97 itself. Under the circumstances it can not be accepted that the management was biased because of the refusal of the workman to compromise and hence the management transferred him due to bias.

8. From the above discussions it is apparent that the workman was posted in Bargaon branch from where he was transferred to Khagaria branch as an stop gap

arrangement. He was relieved on 8-9-97 from Khagaria branch to rejoin Bargaon branch but the workman neither joined nor sent any infromation/application regarding his absense from work. It also appears that letters through registered post were sent to the workman but he refused to receive the same and the letters returned unserved. The evidence adduced on behalf of the management discussed above shows that the workman was given sufficient and ample opportunity but the workman kept himself away from the work after 8-9-97 without any information/application or any reasonable explanation. Not only that he appeared during enquiry and accepted the charges. He did not appear before the disciplinary authority to submit any explanation. Under the circumstances the workman has rightly been held guilty of "gross misconduct" under sub-clause(e) and (p) of clause 19 of Bipartite Settlement. When the workman did not report on work after due opportunity given to him the only course left to the management was to dismiss him from the service. Under the circumstances discussed above I find that the termination of the services of the workman Shiv Charan Ram by way of dismissal is legal and it is justified also.

Point No. (ii) :

9. I have already discussed and held above that the termination of the services of the workman by way of dismissal is legal and justified. Since the termination of service was done as the punishment after the charge having been proved against the workman on due and proper enquiry I find that the workman is not entitled to any relief.

10. In the result I hold that the termination of service of workman Shiv Charan Ram by way of dismissal w.e.f. 30-6-99 by the management is legal and justified and the workman is not entitled to any relief.

11. And this is my award.

Dictated & corrected by me.

VASUDEO RAM, Presiding Officer

नई दिल्ली, 7 फरवरी, 2007

का.आ. 658.—केन्द्रीय सरकार, एतद्द्वारा कर्मचारी राज्य बीमा अधिनियम, 1948 (1948 का 34 की धारा) की धारा 91-क के साथ पठित धारा-88 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए उक्त अधिनियम प्रवर्तन से मैसर्स इण्डियन ड्रग्स एण्ड फार्मास्युटिकल्स लिमिटेड, के नियमित कर्मचारियों को 1-10-1994 से 30-9-2008 तक की अवधि के लिए छूट प्रदान करती है ।

2. उक्त छूट का शर्त निम्नलिखित है; अर्थात् :—

1. पूर्वोक्त प्रतिष्ठान जिसमें कर्मचारी नियोजित है, एक रजिस्टर रखेगा, जिसमें छूट प्राप्त कर्मचारियों के नाम और पदाभिधान दिखाये जायेंगे;

2. इस छूट होते हुए भी, कर्मचारी उक्त अधिनियम के अधीन ऐसी प्रसुविधाएं प्राप्त करते रहेंगे जिनकों पाने के लिए वे इस अधिसूचना द्वारा दी गई छूट के प्रवृत्त होने की तारीख से पूर्व संदत्त अभिदायों के आधार पर हकदार हो जाते हैं ;

3. छूट प्राप्त अवधि के लिए, यदि कोई अभिदाय पहले ही किए जा चुके हों, तो वे वापस नहीं किए जाएंगे;

4. उक्त कारखाने/प्रतिष्ठान का नियोजक उस अवधि की बावत जिसके दौरान उस कारखाने पर उक्त अधिनियम प्रवर्तमान था, (जिसे इसमें इसके पश्चात् "उक्त अवधि कहा गया है"), ऐसी विवरणियों, ऐसे प्रारूप में और ऐसी विशिष्टियों सहित देगा जो कर्मचारी राज्य बीमा (साधारण) विनियम, 1950 के अधीन उसे उक्त अवधि की बावत देती थी ;

5. निगम द्वारा उक्त अधिनियम की धारा 45 की उप-धारा (1) के अधीन नियुक्त किया गया कोई निरीक्षक या नियम का इस निमित्त प्राधिकृत कोई अन्य पदधारी ;

(i) धारा 44 की उपधारा (1) के अधीन, उक्त अवधि की बावत दी गई किसी विवरण की विशिष्टियों को सत्यापित करने के प्रयोजनार्थ, अथवा

(ii) यह अभिनिश्चित करने के प्रयोजनार्थ कि कर्मचारी राज्य बीमा (साधारण) विनियम, 1950 द्वारा यथा अपेक्षित रजिस्टर और अभिलेख उक्त अवधि के लिए रखे गये थे या नहीं, या

(iii) यह अभिनिश्चित करने के प्रयोजनार्थ कि कर्मचारी, नियोजन द्वारा दिये गए उन फायदों को, जिसके फलस्वरूप इस अधिसूचना के अधीन छूट दी जा रही है, नकद में और वस्तु रूप में पाने का हकदार बना हुआ है या नहीं, या

(iv) यह अभिनिश्चित करने के प्रयोजनार्थ कि उस अवधि के दौरान, जब उक्त कारखाने के संबंध में अधिनियम के उपबंध प्रवृत्त थे, ऐसे किन्हीं उपबंधों का अनुपालन किया गया था या नहीं, निम्नलिखित कार्य करने के लिए सशक्त होगा :—

(क) प्रधान या आसन्न नियोजक से अपेक्षा करना कि वह उसे ऐसी जानकारी दे जिसे उपरोक्त निरीक्षक या अन्य पदधारी आवश्यक समझता है ; अथवा

(ख) ऐसे प्रधान या आसन्न नियोजक के अधिभोगाधीन, किसी कारखाने, स्थापना, कार्यालय या अन्य परिसर में किसी भी उचित समय पर प्रवेश करना और उसके प्रभारी से यह अपेक्षा करना कि वह व्यक्तियों के नियोजन और मजदूरी के संदाय से संबंधित ऐसे ऐसे लेखा, बहियां और अन्य दस्तावेज, ऐसे निरीक्षक या अन्य पदधारी के समक्ष प्रस्तुत करें और उनकी परीक्षा करने दें या ऐसी जानकारी दें जिसे वे आवश्यक समझते हैं, या

(ग) प्रधान या आसन्न नियोजक की, उसके अभिकर्ता या सेवक की, या ऐसे किसी व्यक्ति को, जो ऐसे कारखाने, स्थापना,

कार्यालय या अन्य परिसर में पाया जाए, यह विश्वास करने का युक्तियुक्त कारण है कि वह कर्मचारी है, परीक्षा करना, या

(घ) ऐसे कारखाने, स्थापना, कार्यालय या अन्य परिसर में रखे गए किसी रजिस्टर, लेखा, बही या अन्य दस्तावेज की नकल तैयार करना या उद्धरण लेना ।

[सं. एस-38016/37/2006-एस.एस-I]

एस डी जेवियर, अवर सचिव

स्पष्टीकरण ज्ञापन

इस मामले में छूट को भूतलक्षी प्रभाव देना आवश्यक हो गया है क्योंकि माननीय उच्च न्यायालय, उत्तरांचल के दिनांक 07-12-2006 के आदेशों के अनुसार छूट के आवेदन पर पुनर्विचार करने में समय लगा/तथापि, यह प्रमाणित किया जाता है कि छूट को भूतलक्षी प्रभाव देने से किसी भी व्यक्ति के हित पर प्रतिकूल प्रभाव नहीं पड़ेगा ।

New Delhi, the 7th February, 2007

S.O. 658.—In exercise of the power conferred by Section 88 read with Section 91-A of the Employees' State Insurance Act, 1948 (34 of 1948) the Central Government hereby exempts the regular employees in respect of M/s. Indian Drugs & Pharmaceuticals Limited, from the operation of the said Act for a period from 01-10-1994 to 30-09-2008 or the date on which M/s. Indian Drugs & Pharmaceuticals Limited winds up, whichever is earlier.

2. The above exemption is subject to the following conditions nemely :—

(1) The aforesaid establishment wherein the employers are employed shall maintain a register showing the name and designations of the exempted employees'.

(2) Not withstanding this exemption, the employees shall continue to receive such benefits under the said Act to which they might have become entitled to on the basis of the contributions paid prior to the date from which exemption granted by this notification operates ;

(3) The contributions for the exempted period, if already paid, shall not be refundable ;

(4) The employer of the said factory/establishment shall submit in respect of the period during which that factory was subject to the operation of the said Act (hereinafter referred as the said period), such returns in such forms and containing such particulars as were due from it in respect of the said period under the Employees' State Insurance (General) Regulations, 1950 ;

(5) Any inspector appointed by the Corporation under sub-section (1) of Section 45 of the said ESI Act or other official of the Corporation authorized in this behalf shall, for the purpose of :—

(i) Verifying the particulars contained in any returned submitted under sub-section (1) of section 44 for the said period; or

(ii) Ascertaining whether registers and records were maintained as required by the Employees' State Insurance (General) Regulations, 1950 for the said period; or

(iii) Ascertaining whether the employees continue to be entitled to benefits provided by the employer in cash and kind being benefits in consideration of which exemption is being granted under this notification; or

(iv) Ascertaining whether any of the provisions of the Act had been complied with during the period when such provisions were in force in relation to the said factory to empowered to :

(a) require the principal or immediate employer to furnish to him such information as he may consider necessary; or

(b) enter any factory, establshment, office or other premises occupied by such principal or immediate employer at any reasonable time and require any person found in charge thereof to produce to such inspector or other official and allow him to examine accounts, books and other documents relating to the employment of personal and payment of wages or to furnish to him such information as he may consider necessary ; or

(c) examine the principal or immediate employer, his agent or servant, or any person found in such factory, establishment, office or other premises or any person whom the said inspector or other official has reasonable cause to believe to have been an employee ; or

(d) make copies of or take extracts from any register,account book or other document maintained in such factory, establishment, office or other premises.

[No. S-38016/37/2006-SS-I]

S. D. XAVIER, Under Secy.

EXPLANATORY MEMORANDUM

It has become necessary to give retrospective effect to the exemption in this case the application for exemption took time for reconsideration as per orders dated 7-12-2006 of Hon'ble High Court of Uttaranchal. However, it is certified that the grant of exemption with retrospective effect will not affect the interest of any body adversely.

नई दिल्ली, 8 फरवरी, 2007

का.आ. 659.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार आर्डनेन्स फैक्ट्री के प्रबंधतत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, ज़बलपुर के पंचाट (संदर्भ संख्या सीजीआईटी/एलसी/आर/26/97) को प्रकाशित करती है, जो केन्द्रीय सरकार को 8-2-2007 को प्राप्त हुआ था ।

[सं. एल-42011/91/95-आई आर (डी यू)]

सुरेन्द्र सिंह, डेस्क अधिकारी

New Delhi, the 8th February, 2007

S.O. 659.— In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. CGIT/LC/R/26/97) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur, as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of Ordnance Factory and their workman, which was received by the Central Government on 8-2-2007.

[No. L-42011/91/95-IR (DU)]

SURENDRA SINGH, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

No. CGIT/LC/R/26/97

Presiding Officer : SHRI C.M. Singh

The General Secretary,
Ayudh Nirmani Karmchari Sangh,
Qr. No. 2229/II, Ordnance Factory,
Itarsi (MP) ....Workman/Union

Versus

The General Manager,
Ordnance Factory,
Itarsi (MP) ....Management

AWARD

Passed on this 23rd day of January, 2006

1. The Government of India, Ministry of Labour vide its Notification No. L-42011/91/95-IR(DU) dated 30-1-97 has referred the following dispute for adjudication by this tribunal :—

a. "Whether the action of the management of General Manager, Ordnance Factory, Itarsi in imposing the penalty of withholding of next increment for a period of one year without cumulative effect in respect of Sh. Komal Singh Sahu is justified? If not, what relief the workman is entitled to?"

b. Whether the action of the management of General Manager, Ordnance Factory, Itarsi in imposing the penalty of reduction in pay by one stage of the Grade of Durwan from Rs. 940/- to Rs. 926 p.m. in the scale of pay of Rs. 750-12-870-EB-14-940 for a period of two years without comulative effect as well as stoppage of his increment during the penalty period in respect of Sh. Komal Singh Sahu, is justified? If not, to what relief the workman is entitled to ?"

2. The case of workman Shri Komal Singh Sahu in brief is as follows. That he is posted as Durwan in the Security Department of Ordnance Factory, Itarsi. Since 1994 he has been member of registered Trade Union, Ayudh Nirmani Karmchari Sangh, Ordnance Factory, Itarsi and has been holding official post of the said Union. In order to curb the activities of the trade Union, he was served with 3 chargesheets during 4 months. Workman Shri Komal Singh Sahu in due time had submitted the reply of the chargesheets. Those chargesheets were not signed by the duly authorized officer of the management. On the basis of illegal and improper charge-sheets, the workman was punished only for causing harassment to him. The charges levelled against the workman through chargesheets are false, mischevious and baseless. The workman on the basis of the said chargesheets has been punished only for curbing the activities of the Union which is nothing but unfair labour practice. It is prayed by the workman that the punishment imposed upon him on the basis of the false 3 charge sheets is improper and the said punishment be set aside.

3. The management contested the reference. Their case in brief is as follows. That workman Shri Komal Singh Sahu has been employed as Durwan in Ordnance Factory, Itarsi. His duty as Durwan is to watch to guard and protect the Government property, to maintain law and order situation, industrial peace and harmony in the estate. His conduct was unsatisfactory. During the year 1994, he was found negligent in discharging his duties on several occasions. He did not discharge his duties properly. He misbehaved and threatened his superior. He disobeyed the orders of his superiors, foreman (security) and he used to leave duty place without permission and intimation to his superior authorities. He left the place of duty which is a very sensitive place created security risk to the defence stores at several times. He was given ample opportunity to improve his conduct and behavior but it did not yield any result The services of the workman comes under the essential services category. The workman being the Central Government servant, his service conduct is governed by the Central Civil Services (Conduct) Rules 1964 and pursuant to this rules, every Government servant shall at all times maintain —

(i) absolute integrity;

(ii) devotion to duty; and

(iii) do nothing which is unbecoming of a Government servant. During the year 1994, workman Shri Komal Singh Sahu had committed misconducts on several occasions and he was thus proceeded against CCS(CC & A) Rules, 1965 and punished on the following occasions.

Workman Shri Konal Singh Sahu was detailed for duty on 10-8-94 from 14.00 hours to 22.30 hours in the Security office. During the course of his duty, he entered in Security office at about 14:45 hours on that day and misbehaved with Shri H.C.Shrivastava, Office Superintendent Gr.II of Security Office. Further he was detailed for duty from 06.00 hours to 14.30 hours on 19-8-94 for patrolling duty in the Estate area alongwith one Shri Munnilal Rai, Durwan, TKT No. SS/90. Their duty post was shown specifically as "Estate Duty near Raju's Block" and both of them had signed on the duty chart. As per usual procedure, all the Durwans report at Security Office first for their attendance purpose and then go to their duty post for performing their duty. On that day, workman Shri Komal Singh Sahu after coming to security office at 06.00 hours remained in the security office upto 08.45 hours instead of going to his duty place/duty area. On query by the Foreman/Security, Shri Komal Singh Sahu indulged in heated argument with the foreman/security. Thus he disobeyed the orders of his superiors and shown insubordinate attitude towards Forman/Security. He was, therefore, chargesheeted under Rule-16 of the CCS(CC&A)Rules 1965 for gross misconduct- (i) misbehaviour with a member of staff in security section (ii) Disobedience of orders of superiors (iii) Insubordinate attitude and misbehaviour with Foreman/security, (iv) conduct unbecoming of a Government servant vide charge memo No. 1258/80/VIG/CS/94/OFI dated 24-8-94. On the request, he was provided with a Hindi version of the aforesaid chargesheet vide letter dated 10-9-94. He submitted his written statement of charges on 16-9-94. After due consideration of the entire facts and circumstances of the case, the Disciplinary Authority satisfied that charges stands proved against the workman. Accordingly the Disciplinary Authority imposed penalty of withholding of next increment for a period of 2 years on Shri Komal Singh Sahu vide order No. 1258/80/VIG/CS/94/OFI dated 22-11-94. Workman Shri Komal Singh Sahu was detailed for duty from 06:00 hours to 14:30 hours on 9-11-94 at Watch Tower No.17. After completion of his duty on that day, he went to the office of the Foreman/Security at 14.45 hours and sat on a chair. Then he started shouting against the Foreman/Security by telling why he has not allowed Durwans to take payment from cash office. He also misbehaved with Foreman/Security and threatened him uttering in Filthy language in Hindi. Workman Shri Komal Singh Sahu was, therefore, chargesheeted under Rule-16 of CCS (CC&A) Rules 1965. The reply given by the workman against the aforesaid chargesheets was considered by the Disciplinary Authority with reference to relevant documents pertaining to the case and found unsatisfactory. Hence, the Disciplinary Authority imposed the penalty of reduction in pay by one stage from Rs. 940 to Rs. 926 p.m. in the scale of pay of Rs. 750-12-870-EB-14-940 for a period of two. years without cumulative effect. Workman Shri Komal Singh Sahu further conducted misconduct on 20-12-94. He was detailed for duty from 06.00 hours to 14.30 hours on 20-12-94 near watch tower No.2/3 Nullah. But, he was not found in his duty place between 10.00 hours to 12.30 hours, instead he was found in the security office during that period. It was further found that he entered in the Admin. Block on that day at about 11.45 hours without making any entry at the Admin. Gate register. As the above place where he was detailed for duty, was very sensitive and needed security coverage all the time, he created a great security risk to the defence stores by leaving the said place without any intimation to his superiors. He was, therefore, chargesheeted under Rule-16 of CCS(C&A)Rules 1965 for gross misconduct - (i) Leaving place of duty without permission creating security risk to the factory (ii) Unauthorised entry in the Admin. Block - violation of standing instructions (iii) Conduct unbecoming of a Govt. servant vide chargememo No. 1258/137/VIG/CS/94/OFI dated 26-12-94. On his request, Hindi version of the above charge sheet was provided to him. He submitted his written statement of defence on 13-1-95. His statement of defence was considered by the Disciplinary Authority with reference to relevant documents pertaining to the case and disciplinary authority found it unsatisfactory. Therefore, the Disciplinary Authority imposed the penalty of reduction in pay by one stage from Rs. 940 to Rs. 926 for one year without cumulative effect vide order No. 1258/137/VIG/CS/94/OFI dated 23-3-95. It was ordered therein that the penalty would become operative after expiry of currency of the earlier penalty imposed vide order No. 1258/130/VIG/CS/94/OFI dated 10-3-95. Workman Shri Komal Singh Sahu did not file any appeal against any aforesaid penalties. Instead he approached the General Secretary, Ayudh Nirmani Karmchari Sangh, Ordnance Factory, Itarsi and the said Union has raised the present industrial dispute. In view of the aforesaid facts and circumstances, the workman has no case.

4. Vide order dated 8-1-04 of this tribunal, the case proceeded exparte against the workman/Union and in this manner, no evidence has been adduced on behalf of the workman/Union.

5. The management filed affidavit of their witness Shri M.G.Burdo the then posted as General Manager Admin. in Ordnance Factory, Itarsi.

6. I have heard Shri A.K.Shashi, Advocate for the management and perused the evidence on record very carefully.

7. As already mentioned above, there is no evidence of workman/Union for proving the case of workman/Union. Against the above, the case of the management is fully established and proved from the uncontroverted and unchallenged affidavit of management's witness Shri M.G.Burdo, the then posted as General Manager/Admin. in Ordnance Factory, Itarsi.

8. In view of the above, the reference deserves to be decided in favour of the management and against the workman/Union. But keeping into consideration the facts and circumstances of the case, I am of the view that the parties should be directed to bear their own costs of this reference. The reference is therefore decided in favour of the management and against the workman/Union holding that the action of the management of General Manager, Ordnance Factory, Itarsi in imposing the penalty of withholding of next increment for a period of one year

without cumulative effect in respect of Sh.Komal Singh Sahu is justified and the workman is not entitled to any relief. It is also hereby held that the action of the management, General Manager, Ordnance Factory, Itarsi in imposing the penalty of reduction in pay by one stage of the Grade of Durwan from Rs.940/- to Rs.926 p.m. in the scale of pay of Rs.750-12-870-EB-14-940 for a period of two years without cumulative effect as well as stoppage of his increment during the penalty period in respect of Sh.Komal Singh Sahu, is justified and consequently the workman is not entitled to any relief. The parties shall bear their own costs of this reference.

9. Copy of the award be sent to the Government of India, Ministry oLabour as per rules.

C. M. SINGH, Presiding Officer

नई दिल्ली, 8 फरवरी, 2007

का.आ. 660.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मेसर्स हसन्द कम्पनी के प्रबंधतत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय अर्नाकुलम के पंचाट (संदर्भ संख्या 39/2006) को प्रकाशित करती है, जो केन्द्रीय सरकार को 8-2-2007 को प्राप्त हुआ था ।

[सं. एल-39011/1/2004-आई आर (बी-II)]

राजिन्द्र कुमार, डेस्क अधिकारी

New Delhi, the 8th February, 2007

S.O. 660.— In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 39/2006) of the Central Government Industrial Tribunal-cum-Labour Court, Ernakulam as shown in the Annexure, in the Industrial Dispute between the management of Hashand Company, and their workman, received by the Central Government on 8-2-2007.

[No. L-39011/1/2004-IR (B-II)]

RAJINDER KUMAR, Desk Officer

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM LABOUR COURT, ERNAKULAM

PRESENT : Shri P.L. Norbert, B.A., L.L.B., Presiding Officer

(Tuesday the 23rd day of January, 2007/

I.D. 39/2006

(I.D.12/2004 of Labour Court, Ernakulam)

Workmen

1. K.S. Samson S/o K.A. Sandhayavu Kunnel House, H. No. XI/429 Cicily Villa, Mullavalappu Kochi -1. (Wage No. 564)
2. K.F. Devassy S/o K.J. Francis Kurishingal House, H.No. 9/247 Veli, Odatha, Kochi -1 (Wage No. 528)
3. T.S. Vinod S/o T.V. Shanmughan, H.No.X/1296, Mullavalappu Kochi -1 (Wage No. 573)
4. V.M. Basheer S/o V.B. Mohammed Kezhkan Muris Parambu, 21/1368 Palluruthy (Wage No. 575)
5. Xavier K.B. S/o Bastian K.B. H.No. 11/374, S. Thamaraparambu Kochi -1 (Wage No. 580)
6. Joseph Nelson K.B. S/o Bastian K.B. Kaithavalappil, H.No. 15/1986 A, Beach Road, Rameshwaram Colony (Wage No. 558)
7. M.J. Andrews Shanti Nagar GCDA, LEG 123, H.No. 8/876 Koovapadam, Mattancherry Kochi -2 (Wage No. 503)
8. P.E. Joseph S/o P.A. Erani Palliparambil House, H.NoX/1458 S. Thamaraparambu Fort Kochi Kochi -1 (Wage No.538)
9. M.A. Akbar Maliyakkal House, H.No.14/1382, West Karuvelippady Kochi -5 (Wage No. 523)
10. P.M. Sirajudheen Kunnel House H.No.12/537, Pandikudi Kochi -2 (Wage No. 524)
11. C.O. Stanley, S/o Ouso Chalichal House, H.No. 10/1238 A Mulavalappu Kochi -1 (Wage No. 529)
12. Raphel Lisbo S/o Stanley Lisbo H.No. 11/33, S. Thamaraparambu Fort Kochi, Kochi -1 (Wage No. 506)
13. Stephen Fernandez S/o Robert Fernandez H.No., 11/417, Fort Kochi, Kochi -1 (Wage No. 552)

Adv. Shri Tom Jose.

Managements

1. The Director, M/s. Hash & Company Collis Building, Venkitaraman Road, Wellingdon Island Kochi -3.
2. The President Cochin Steamer Agents Association Indira Gandhi Road, Wellingdon Island Kochi -3.
3. The President, United Stevedores Association of Cochin (P) Ltd., Subramaniam Road, Door No. 26/1795 Wellingdon Island Kochi -3.

Adv. M/s. B.S. Krishnan Associates.

AWARD

This is a reference made by Central Government under Section 10 (1) (d) of Industrial Disputes Act, 1947 for adjudication. The reference is:—

> "Whether the management of Cochin Steamer Agents Association, United Stevedores Association of Cochin (P) Ltd. & Hash Company have denied employment and wages to Shri K.S. Samson & 19 others Container High Stacking Workers, or not? If so, to what relief the concerned workmen entitled ?"

2. This case was pending before State Labour Court, Ernakulam and was transferred to this court in May, 2006 as per order of the Hon'ble High Court of Kerala. The facts in brief are as follows:

In response to the notice from the court thirteen workers entered appearance and filed a joint claim statement. According to them, while they were working under the managements they were denied work and hence they filed a writ petition before the Hon'ble High Court of Kerala on 2-8-2002. The High Court ordered *status quo* which was subsequently modified. In the final order in O.P. Regional Labour Commissioner (Central) was directed to conciliate and settle the dispute. Ultimately a failure report was submitted by ALC(C) and the Ministry of Labour directed Cochin Port Trust Chairman to advise the managements to settle the dispute in an amicable manner. The Traffic Manager of Cochin Port Trust convened a meeting of all concerned on 5-3-2004 and tried to settle the dispute. At the end there was a suggestion for payment of compensation under VRS. The workmen sought more liberal terms of VRS. But the management was not agreeable and conciliation talk ended in failure. The government then referred the industrial dispute u/s-10(1)(d) of the Act. The workmen are container high stacking workers under the management of United Stevedores Association of Cochin (P) Limited. High stacking workers' duty is stuffing and de-stuffing of goods in containers and from containers at Cochin Port. On 19-6-1993 a settlement was arrived in the presence of RLC(C) and ALC(C) regarding the service conditions of container high stacking workers working under various stevedores. A pool of container high stacking workers was formed as per the settlement. There were 80 container high stacking workers in the pool, of whom 45 were registered employees and 35 over-flow employees. The workers were issued with wharf entry passes. While so, on 31-3-1998 the 3rd management terminated the service of 31 container high stacking employees on the ground that there was no sufficient work. The retrenched workers raised an industrial dispute and the same is pending before court as I.D.6/99. The Cochin Port Trust, finding that introduction of house stuffing would reduce employment opportunities of pool workers, decided to levy cess for meeting the expenses for payment of salary of workers. The Chairman of Cochin Port Trust had also assured absorption of private pool workers in the future vacancies arising in the Cochin Port Trust. The management collected crores of rupees by way of cess. When house stuffing started in private godowns the work of pool workers was reduced considerably. There was discussion between Chairman of Cochin Port Trust and unions on 29-4-1995 regarding the problem of shortfall in work and it was agreed that efforts would be made to set up container freight stations in Wellingdon Island outside the Port premises for employing pool workers who would be losing employment. It was also agreed that the pool workers would be considered in future vacancies that would arise in Cochin Port Trust. When M/s. Asian Terminals started container freight station in W/Island, pool workers sought employment. There was dispute and conciliation between M/s. Asian Terminals and six unions in the matter of employment of pool workers. Ultimately the matter was referred by the parties for arbitration. An arbitration award was passed on 15-10-1997. On 27-5-2002 the management published a seniority list of container high stacking workers without properly considering the seniority of workers. On 29-7-2002 a notice was put on the notice board of 1st management proposing to retrench 23 container high stacking workers and individual notices were also sent by courier and speed post to the workers. Retrenchment compensation was also offered along with notice. The managements were purposely creating shortage in work with a view to terminate pool workers and engage private workers on lesser wages. The retrenchment compensation offered is very low and not in accordance with the norms. It was to quash retrenchment notices that the workers approached the High Court in O.P. 22078/02. There was a direction to engage the pool workers who were denied work whenever there is work and not to induct outsiders for the work. Whenever workers are engaged as per the direction of High Court wages are not paid in accordance with law. The union secretary and a trade union leader wanted to induct private workers in the place of pool workers. The management is much more interested in collecting cess than creating work. Every year more than Rs. 2 crores is collected by way of cess and the present balance in cess collection is over Rs. 10 crores. The management is treating the workmen as casual workers and paying wages on daily wage basis. The workmen are discriminated against the same set of workers who are retained in container high stacking pool in the matter of payment of wages and other benefits. The workmen are entitled to get full wages and employment as per settlement. They are also entitled to get arrears of wages.

3. Managements 1 to 3 have the same contentions. According to them the reference is not maintainable as the issues referred are not regarding dismissal, discharge, retrenchment or termination of service. Therefore the workmen have no right to raise an industrial dispute in their individual capacity u/s-2A of Industrial Disputes Act. The container high stacking workers were initially employed under different stevedores. Some had more work than others. There was a clamour for equitable distribution of work. At the intervention of Regional Labour Commissioner there was a settlement on 19-6-1993 by which

a container high stacking workers pooling scheme was framed. Eighty workers were included in the scheme. However, only 76 workers turned up for registration under the II scheme. The 1st management, M/s Hash and Company was appointed as administrative agency for running day-to-day affairs of the pool under the control and direction of 3rd management, United Stevedores Association of Cochin (P) Ltd. The stuffing and de-stuffing work were being done under the respective stevedores and payments were made by the concerned stevedores through administrative agency, the 1st management. The workers were controlled and supervised by respective stevedores. Hence stevedores are the employers of container high stacking workers. With the introduction of modem methods of cargo handling, rationalization of gang strength of dock workers by Cochin Port Trust, introduction of in-house stuffing etc. there was considerable reduction of work and shortfall in employment opportunities. The order of Port Trust to ban engagement of private labour further reduced the employment opportunities. As a result, there was reduction in income in the pool for meeting the wages of workers. In order to meet the shortfall in income the Chairman of Cochin Port Trust ordered collection of cess from containers handled in the Port. With a view to create employment for the pool workers there was discussion between Chairman, Cochin Port Trust and unions. There was a suggestion to establish container freight stations in W/Island outside wharf area in order to create employment for the pool workers. Thus M/s Asian Terminals (C.F.S) commenced its function. They required 12 workers from the pool. However the workers were not willing to work in M/s Asian Terminals. Hence they engaged their own men. In 1998, due to shortage of work 31 container high stacking workers were retrenched. Even then problem was not solved. There was not even half a day's work per person in a month. Hence the management decided to retrench 23 more workers. The retrenchment notices were sent to workers and published on the notice board on 29-7-2002. The retrenchment was effected on 31-7-2002. The retrenched workers were offered retrenchment compensation, gratuity and bonus along with notices. Out of 23, 22 workers challenged the retrenchment by filing writ petition before Hon'ble High Court of Kerala. The High Court directed the management to engage the workers whenever there is work and to pay wages on the days they work and not to engage outsiders. However, the retrenched employees are not entitled to benefits given to other workers retained in the pool. Finally there was a direction in the O.P. to refer the dispute to conciliatory forum under I.D. Act. Accordingly, ALC conciliated the dispute regarding denial of employment and wages and a failure report was sent to Government. Thereafter the present reference was made by Government. Meanwhile, one of the retrenched workers, Shri C.O. Stanley filed a writ petition before the High Court challenging revenue recovery proceedings against him for amounts due to Punjab National Bank. As per the direction of the High Court a Demand Draft for the amount due as retrenchment compensation was handed over to the counsel of Shri C.O. Stanley and out of that amount, money due to Punjab National Bank was paid. The wharf entry passes were issued to workers since they had to work in the protected area of Port and it does not mean that they are employees of Cochin Port Trust. The cess collection is not a perpetual arrangement. Opportunity given for alternate employment in a container freight station was not availed by the workers. The seniority list was drafted by the unions. The management has not deliberately reduced work. Retrenchment is effected in accordance with law and offering due compensation. The demand of workers for payment of full wages for a month irrespective of number of days of work is not in accordance with the order of Hon'ble High Court. They are entitled to get only for the days they work on daily wage basis. The managements are not responsible for house stuffing. The house stuffing work is done even outside Cochin, places like, Alapuzha, Kollam, etc. There is no intention on the part of managements to create any artificial shortage in work. For different categories of workers there are different pools. They are also governed by settlements regarding service conditions. Hence workers in different pools cannot have uniform status and privileges. After the retrenchment the workers cannot make claim under any of the settlements of 1993 or 1995. The stuffing and de-stuffing of containers was originally done by workers of Dock Labour Board. Subsequently they refused to perform the work. Hence private workers had to be engaged. Thus container high stacking workers' pool came into existence. The managements have neither denied employment nor wages to the workers. Hence the claim of workers is not sustainable.

4. In the light of the above contentions, the following points arise for consideration:

(1) Is the reference maintainable?

(2) Whether there is denial of employment and wages? If so, is it legal?

(3) To what reliefs are the workers entitled?

The evidence consists of the oral testimony of WW1 to 5 and documentary evidence of Exts. W1 to 38 on the side of workmen and MW1 and Exts. M 1 to 43 (b) on the side of managements.

5. Point No. (1) :

Twenty workers in their individual capacity have raised the industrial dispute. But only thirteen of them have appeared and filed claim statement. According to the management the reference is regarding denial of employment and wages and not regarding dismissal, discharge, retrenchment or termination of service and hence the workmen are incompetent to raise an industrial dispute in their individual capacity. Therefore the reference is not maintainable. There is yet another contention that names of all workmen are not mentioned in the reference and that adds to the infirmity of the reference.

6. Section 2A refers to espousal of a dispute by workmen in their individual capacity when there is

discharge, dismissal, retrenchment or otherwise termination of service of such workmen by employer. Hence, if there is action under one or other counts of S-2A by the management, the workmen, in their individual capacity, can raise an industrial dispute. But, according to the management, none of the factors u/s-2A is applicable to the instant case because the reference is confined to denial of employment and wages only. The learned counsel for the management contends that denial of employment does not amount to discharge, dismissal, retrenchment or termination of service. No doubt, the reference is regarding denial of employment and wages. But the wordings in a reference may not be sometimes well-couched. What really is the dispute that the workmen wanted to expouse is to be gathered from the pleadings and evidence led by the parties in the reference. Paragraphs 10 & 12 of the claim statement give indication of the real dispute of the workmen. It is alleged there that a retrenchment notice was put up on the notice board of the 1st management, M/s. Hash & Company on 29-7-2002 proposing to retrench 23 high stacking workers. It is further alleged that individual notices were also issued by the management by courier and speed post offering also retrenchment compensation. Hence the workers were constrained to file a writ O. P. before Hon'ble High Court of Kerala on 2-8-2002 as O. P. 22078/02. It is further stated that being aggrieved by the illegal acts on the part of managements and apprehending retrenchment and consequent illegal denial of employment the petitioners preferred the original petition. Ext. W1 is the copy of Original Petition No. 22078/02. Though the O. P. was prepared earlier, it was filed on 1-8-2002 and moved on 2-8-2002. Though status quo order was passed on 2-8-2002 (Ext. M22-W2) it was modified by Ext. M23 (W3) order dated 14-8-2002 when it came to the notice of the court that the workmen were already retrenched on 31-7-2002. The managements were directed to engaged petitioners in O. P. whenever there is work and pay wages for the days they work. It is relevant to note the contentions in Ext. W1 O.P. of the workmen before the High Court. It is repeatedly averred in the petition that the workmen apprehended termination of service. The relief sought in O.P. was to quash retrenchment notice Ext. W1 (g), to keep in abeyance retrenchment notice until representations of unions are considered and to direct the managements to refrain from retrenching the workers. The retrenchment notice says that the workmen will stand retrenched w.e.f. 31-7-2002 Emphasis Supplied.

7. The workers had alleged in the O.P. that the Regional Labour Commissioner and Assistant Labour Commissioner (Central) had not considered the grievances of the workmen and the labour problem. They were respondents 2 & 3 in O. P. they had filed a joint counter affidavit in O.P. (Ext. W22). In paragraph 5 it is stated that though the union had made representation regarding retrenchment of 23 container high stacking workers employed by Steamer Agents Association of Cochin (P) Ltd. and requested for intervention to settle the dispute, the union had also stated that an O. P. had been filed before Hon'ble High Court on the same issue and the matter was pending. Since the dispute was thus subjudice it was not taken up for conciliation and the union was advised to wait till the outcome in O.P. Ext. M26 (W15) is the judgment in O.P. as well as contempt petition dated 27-6-2003. The RLC and ALC (C) were directed to consider the complaint regarding denial of employment and wages within a period of 3 months. Accordingly, conciliation was held by ALC(C). But a settlement could not be arrived. Hence, Ext. W31 failure of conciliation report was sent by ALC to Government on 29-12-2003. Before the matter was referred under section 10(1) (d) of I.D. Act, Ministry of Labour requested Ministry of Surface Transport (Shipping) to advise the concerned managements to discuss with unions and settle the dispute amicably Ext. M28 W20 (a)]. But no settlement could be reached. Hence the reference was made to the court. This background before the reference has to be looked into to know the exact the scope of reference. It is relevant to note that the first prayer in O.P. was to direct the respondents to refrain from retrenching the respondent from service. A representation was submitted by union to the Chairman of Coching Port Trust on 30-7-2002 about the attempt of Steamer Agents Association to retrench the workers Ext. [W1(e)]. By the time O.P. before High Court was filed the retrenchment was already effected as on 31-7-2002. When these circumstances and pleadings are looked into there can be no room for doubt that the dispute and the reference are regarding termination of service. I have already mentioned that paragraph 12 of claim statement contains an avertment that the workmen had filed the writ petition apprehending retrenchment and consequent denial of employment. Thus the working in the reference 'denial of employment' is nothing but the consequence of retrenchment. There is no meaning in referring a dispute regarding reduction of volume of work after the workmen are retrenched. Neither the workmen nor the Government would have contemplated such a situation when the reference was made. The managements have no case that the workmen are still in service. They were retrenched on 31-7-2002 and thereafter they are being offered work on daily wage basis as per the direction of Hon'ble High Court in O.P. But for that they are not in service. Hence the reference is regarding termination of service or to put it in labour parlance retrenchment under section -2(oo) of Industrial Disputes Act.

8. If the workmen were retrenched as per Ext. W1(g) notice, in order to raise an industrial dispute regarding retrenchment it is not necessary that union should intervene. The dispute can be raised by individual workmen as per section (2)A of I.D. Act. The decision referred in this regard by the learned counsel for the workmen and reported in J.H. Jadhav v. Forbes Gokak Ltd. (2005) 3 SCC 202 has no application to the disputed case. The issue in the reported case was regarding industrial dispute under section 2(k) of I. D. Act. The appellant was a member of union. The court held that a single workman's case can be spoused by a union and whether the union is minority

union or majority union is of no consequence. Whereas in the present case no union has espoused the cause of workmen. The workmen themselves have come forward in their individual capacity with an industrial dispute. Thus the decision has no application at all to the facts of this case. Since the individual workmen are competent to raise an industrial dispute in case of retrenchment the contention of the management, that the workmen are incompetent to raise the dispute is unacceptable.

9. There was yet another contention by the management that the name of one worker alone is mentioned in the reference and hence the reference is bad. It is true that in the reference the name of one worker, viz. K. S. Samson alone is mentioned and rest of the workers are referred as 19 other container high stacking workers. But the dispute before the Conciliation Officer, ALC(C) was raised by all the 20 workers. It is seen from Ext. W31 failure report of ALC sent to the Government that K. S. Samson and 19 other workmen had raised the dispute. However, when the reference was made, only 13 workmen entered appearance before the court and filed claim statement and not all the 20 workers. Probably because there were too many numbers of workmen that the names of all were not mentioned in the reference. That cannot in any way affect the reference. The management have no case than other than workers who had raised the dispute before ALC some others too have approached this court. Hence the non-mention of the names of all workers in the reference, cannot affect the reference. Therefore I find that the reference is sustainable and there is no infirmity in the reference.

10. Point No. (2) :

The workers in this case and some others who were members of different trade unions were working as chikkar boys from 1980 onwards in Cochin Port Trust for stuffing and de-stuffing of goods in and from containers in the wharf area. They were employed by steamer agents through their respective licensed master stevedores in 1993 they were brought under container high stacking workers pool, as per a scheme evolved under a settlement of 1993. There were different pools for different categories of workers under U.S.A. pool administration. For running the day-to-day affairs of container high stacking workers pool M/s. Hash & Company was appointed as administrative agency. Regarding the service conditions of these workers there were settlements on 19-6-1993 and 14-10-1995. Originally the work of stuffing and de-stuffing was done within the wharfs area and by DLB regular workers. When the work increased the DLB workers refused to handle the entire work. Thus private workers like the workmen in this case were engaged along with DLB workers to do stuffing and de-stuffing work. Later, when the Cochin Port Trust found that exporters outside Ernakulam, i.e. in Alapuzha, Kollam, Coimbatore etc. were avoiding Cochin Port due to delay in stuffing and de-stuffing work, in order to attract those companies Cochin Port Trust decided to introduce house stuffing. House stuffing means stuffing and de-stuffing in and from containers outside the wharf area in private godowns. Before house stuffing was permitted a study of the pros and cons of house stuffing was conducted and a report was submitted (Ext. M8). since the report was to the effect that the work opportunities of container high stacking pool workers will continue and assessment of loss of job opportunities/earnings can be made only on actual experience, and that regular employees of CPT would not be affected, the CPT decided to introduce house stuffing. But within a short span the container high stacking workers pool felt the pinch and 35 container high stacking pool workers were retrenched on 14-7-1998.The situation deteriorated further. Then the management retrenached another 23 workers on 31-7-2002. thus the dispute with regard to denial of employment has emerged.

11. At the outset the management contended that this court cannot travel beyond the terms of reference which is only regarding denial of employment and not retrenchment the learned counsel or the management, to substantiate his contention, relied on the following decisions : *Delhi Cloth & General Mills Co. v. Their workmen* 1967 1-L.L.J. 423. *Firestone Tyre and Rubber Co.* .v. Workmen 1981 II-L.L.J. 218, Sitharam Vishnu Shriodhkar v. The Administrator, Govt. of Goa 1985 - 1-L.L.J. 480 and E.E.C.I.L. v. I.T.M. & another 1987-I-LLJ 141. But there is no quarrel about the proposition of learned counsel.

12. I have aleady found under the foregoing issue that denial of employment is nothing but retrenchment. Moreover, it is not denial of work, but denial of employment that is challenged. If the reference was denial of work perhaps one could say that it refers to reduction of volume of work. But where the dispute is regarding denial of employment it relates to total unemployment or retrenchment. There is no case that denial of employment is due to closure or transfer of the undertaking. Hence the issue referred is nothing but retrenchment. The pleadings and evidence are galore to show that there is retrenchment. The Pleadings and prayers in Ext. W1 writ O.P. 22078/02, Ext. W1 (g) retrenchment notice, Ext. W22 counter affidavit filed in O.P. by RLC and ALC(C), Ext. W31 failure of conciliation report and pleadings in claim statement and written statement are enough proof of the fact that the workers were retrenched and it is that action of the management that is challenged though in the reference it is differently worded. Therefore the crucial question to be answered is : whether retrenchment was necessitated and was it done in accordance with law ?

13. The management reiterates that this court cannot go into the aspect of legality and necessity of retrenchment as there is no reference to the effect. But, once the workmen are retrenched and thereafter there is conciliation regarding that industrial dispute and there is a deference by the government to Labour Court, what else, other than the issue of retrenchment, is to be considered by an adjudicatory forum? It is meaningless to say that even after retrenchment the dispute is still centered round

reduction of volume of work. The effect of retrenchment is that the workers are no more in the rolls of establishment and they cannot get work any more. In such a situation the question of reduction of work does not arise at all. It is futile to make an attempt to adjudicate on an issue which is no more alive. Just because reference is not accurately worded it does not mean that the workmen are to be dragged once again to undergo the ordeal of conciliation, reference and adjudication. I don't think the contention of the management has merit. The reference definitely concems retrenchment. Therefore the real issue to be considered is the necessity of retrenchment and its legality.

14. Section 2(oo) defines retrenchment. It is as follows :

"2(oo). "retrenchent" means the termination by the employer of the service of a workman for any reason whatsoever, otherwise than as a punishment inflicted by way of disciplinary action but does not include—

(a) voluntary retirement of the workman; or

(b) retirement of the workman on reaching the age of superannuation if the contract of employment between the employer and the workman concerned contains a stipulation in that behalf; or

(bb) termination of the service of the workman as a result of the non-renewal of the contract of employment between the employer and the workman concemed on its expiry or of such contract being terminated under a stipulation in that behalf contained therein; or

(c) termination of the service of a workman on the ground of continued ill-health;

to explain the meaning of 'retrenchment' u/s-2(oo) the learned counsel for the management took me through the decision of the Constitution Bench of Hon'ble Supreme Court in *Barsi Railway Co. Ltd.* V. *Joglekar & Ors.* 1957 I-L.L.J. 243. the relevant observation is contained at page 252. It is as follows :

"For the reasons given above, we hold, contrary to the view expressed by the Bombay High Court, that retrenchment as defined in S. 2(oo) and as used in S. 25F has no wider meaning than the ordinary, accepted connotation of the word : it means the discharge of surplus labour or staff by the employer for any reason whatsoever, otherwise than as a punishment inflicted by way of disciplinary action and it has no application where the services of all workmen have been terminated by the employer on a real and bona fide closure of business as in the case of Shri Dinesh Mills Ltd., or where the services of all workmen have been terminated by the employer on the business or undertaking being taken over by another employer in circumstances like those of the railway company."

The position is reiterated by another Five-Judge Bench in Anakappala Cooperative Agriculture and Industrial Society Vs. Its workmen 1962-II LLJ 621 at 628-29. The decisions say that retrenchment is discharge of surplus labour, irrespective of the reasons for surplusage.

The leamed counsel for the workman relied on the following decisions to content that the retrenchment at any rate is illegal. However they do not apply to the facts of this case.

Chief of the Army Staff & Ors. v. Major Dharam Pal Kukrety 1985 II-L.L.J. 165 was a case when action of the management in taking disciplinary action against an employee was questioned in writ petition. There was a contention that the writ was not maintainable as the action was taken by disciplinary authority without jurisdiction. In that context the Hon'ble Supreme Court held that the party need not wait for the injury to be caused before seeking the protection of the court. In such a situation writ is maintainable against a show cause notice. The decision has no application to this case.

The second decision is reported in Pramod Jha v. State of Bihar (2003) 4 SCC 619. This is regarding retrenchment procedure to be followed by the management. This again has no application to the instant case.

The third decision is Oswal Agro Furane Ltd. v. Workers Union (2005) 3 SCC 224. There the Hon'ble Supreme Court was dealing with retrenchment u/s 25-N of Chapter V-B of I.D. Act, which is in respect of an industry where not less than 100 workers are employed on an average everyday preceding 12 months. Sections 25-O and 25-C were also dealt in the decision. The decision has absolutely no application to the facts of this case.

It is contended by the management that it is for the employer to re-organize and rationalize the work in an establishment and decide the workload and labour strength. The employees have no right to say that they should be retained until their superannuation. If circumstances warrant the employer is free to retrench the workmen. He finds support for his contention in Macropollo & Company v. Their Employees" Union 1958 II-L.L.J. 492 and M/s. Parry & Co. Ltd. v. P. C. Pal 1970 II-L.L.J. 429.

15. It is relevant to note the pleadings in paragraph 6 of the claim statement. It is contended by the workmen that when house stuffing was introduced the volume of work of container high stacking workers was reduced and the income too. It was to meet that contingency that cess collection was ordered by the chairman of Cochin Port Trust. There was an understanding between Cochin Port Trust and Unions that the Cochin Port Trust would set up container freight stations in Wellingdon Island outside wharfs area for the purpose of employing pool workers who lose employment. It was also promised by the Chairman of Cochin Port Trust that pool workers would be absorbed in the Cochin Port Trust in the vacancies

likely to arise in future. Thus the reduction of work is admitted by the workers. However, their case is that this was caused by the 1st management as well as Cochin Port rust due to their indifference to the workers and deliberate creation of a situation to reduce work for the purpose of engaging private workers from outside with a view to make monetary agains (Paras 11 & 13 of claim statement). The managements on the other hand in their written statement contend (paragraphs 6,7,10 & 15) that due to house stuffing there was a sharp decline in employment opportunities of container high stacking workers. Though 58 container high stacking workers were retrenched still there was not enough work for the remaining workers. Retrenchment was effected for *bona fide* and genuine reasons in accordance with the provisions of I.D. Act. The managements have not denied employment or wages purposely. No body from outside the pool has been employed in place of retrenched workmen.

16. Ext. W21 is the counter affidavit filed by Chairman of Cochin Port Trust in the Contempt Petition No. 650/03 in O. P. 22078/02 before High Court. It is admitted that the universal practice of house stuffing and house de-stuffing was adopted by Cochin Port Trust, which had resulted in reduction of work in various categories of stevedore workers including container high stacking workers. In order to tide over unemployment it was decided to establish private freight stations in Wellingdon Island so that pool workers would get enough work. There was also a decision to levy cess on containers handled in Cochin Port in order to meet salary expenses of pool workers. Due to the continued reduction in work many container high stacking workers were retrenched. The Cochin Port Trust is not the employer of the workmen and Cochin Port Trust has not denied work. WW1 is one of the workmen. He has also admitted that due to house stuffing there was considerable reduction in work for the container high stacking workers. However, according to him, the management was not providing even the available work to the workers (Pgs. 17, 20,21 &22). Ext. W11 series, 13 and 34 series are daily returns. Exts. W5(b), 8(a) series, W12 and 14 are wage statements of workers. They reveal that even after retrenchment of workers the volume of work was still on the decline. Shifts were reduced as well as number of days of work in a month were also reduced. Accordingly, the income of workers too came down. Exts. W16 and 17 are letters addressed by U.S.A. to Steamer Agents Association on 24-1-2002 and 7-2-2002 respectively showing the details of average employment shifts in which each container high stacking worker worked every month from July 2001 onwards. The average work as per the statements (Ext. W16 & 17) per employee was 81 per month in January 2001 and towards the middle of the year it was reduced to .59 per month. The position was not better even in 2002. Ext. M41 series are statements showing collection of shortfall in wages from steamer agents out of cess fund. The statements relate to the period from August, 2002 to January, 2006. Every months, on an average, about Rs. 1,25,000 was claimed from the cess fund. The letters written by M/s. Hash & Company every month for getting money from steamer agents out of cess fund are also produced and form part of Ext. M41 series. Ext. M42 series are statements of weekly off and shift, again showing reduction of work. Thus the contentions of the parties as well as documentary evidence go to show that the phenomenon of fall in work and income of container high stacking workers has been on the decline ever since the introduction of house stuffing.

17. When retrenchment is made on the ground of less work and more workers the management need not explain as to why and how the shortage or reduction of work has occurred. The law permits the management to retrench workers for surplusage of labour. The cess collection was ordered to meet the contingency of less income in the pool to meet the salary of container high stacking workers. According to the management it is not a permanent solution. It is only a stop gap arrangement. Alernate employment had to be sought the meanwhile (Page 15 of written statement). Before house stuffing was introduced a study was conducted to assess the after effects of house stuffing. The study report is Ext. M8. Thereafter there was a memorandum of settlement between Cochin Port Trust, Cochin Port Labour Board and Cochin Steamer Agents Association on the one hand and various unions of employees on the other hand on 12-11-1992. Ext. M9 is the settlement. Clause 5 of that settlement refers to the container high stacking workers. It was agreed that the quantum of work and the loss of income sustained by container high stacking workers will be monitored regularly and loss of earnings will be compensated. But no steps worth mentioning were taken by the managements. Ext. M10 dated 12-5-1995 is the proceedings of Chairman of Cochin Port Trust. He had promised that private container freight stations will be set up in Wellingdon Island which can employ the pool workers. Another promise in Ext. M10 was to levy cess on containers to compensate the loss of earnings of pool workers. Another understanding in Ext. M10 was to absorb pool workers in Cochin Port Trust. A private container freight station was set up by one M/s. Asian Terminals in Wellingdon Islands for stuffing and de-stuffing operation. They recruited 33 workers from outside. The pool workers and their union agitated against such recruitment. There was an industrial dispute between M/s. Asian Terminals and unions and the matter was referred for arbitration and an award known as *Chakravorty Award* (Ext. M2) was submitted. The findings in the award was that 33 workers recruited by Asian Terminals do not have any right for employment in M/s. Asian Terminals and that the demand of unions, for implementation of the assurance of Chairman of Cochin Port Trust to engage pool workers in CFS, is justified. It means all the 33 or more workers required by M/s. Asian Terminals had to be taken from container high stacking worker's pool. Exts. M11, 12, 13, 43 (a) & 43 (b) are correspondence between M/s Asian Terminals and various unions and workers themselves directly. After the award M/s. Asian Terminals offered to take 12 container

high stacking workers from the pool. However the workers were not agreeable to the proposal. They wanted work for all the retrenched workers on rotation basis. Moreover, they were not told about the service conditions in the establishment. Hence they refused to accept the proposal, but wanted the establishment to employ all the retrenched workers on rotation basis after disclosing the service conditions. This was not acceptable to M/s. Asian Terminals. It is relevant to note that the union had merely passed on the opinion of workers to M/s. Asian Terminals. The Cochin Port Trust did not intervene. The Cochin Steamer Agents Association and Cochin Stevadores Association also did not intervene. The union did not bother to read the collective bargaining spirit of workers in demanding employment for all the retrenched workers. The workers were left in the lurch by the union. The workers allege that the union owed loyalty to the private establishment and did not protect the workers. They further allege that it is with the blessing of the union that workers were recruited from outside. However the allegations are not substantiated. But one thing is evident that the union did not make any serious effort to protect the workers in the light of the *Chakravorty Award* as well as the assurance of Chairman of Cochin Port Trust referred supra. In W21, counter affidavit of Chairman, Cochin Port Trust in O. P. 22078/02, it is stated that after the retrenchment of container high stacking workers, 50 vacancies had arisen in Cochin Port Trust, but they were filled up by the dependents of employees of Cochin Port Trust and hence the pool workers could not be accommodated. The union did not question this. There was none to protect the workers. There were only empty promises which never materialised. At the same time, cess collection continued uninterruptedly at the same rate and at the same speed. But 58 employees were retrenched for whom and for similar pool workers on the rolls the cess collection was being continued. Altogether initially there were about 300 workers in different pools under USA as stated by WW2 (pg. 11 of his deposition). He was Secretary of Cochin Port Employees Union and Chief Foreman of USA. The very purpose of cess collection is defeated by the action of managements in dismissing the workers. As per the claim statement (page 15, Para 9) in the year 2000-01 over 2.45 crores of rupees were collected as cess. By 2003-04 the balance amount in the cess fund was over Rs. 10.60 crores. These statistics, according to the workmen, were taken from the Annual Report of Cochin Port Trust. However the actual facts and figures are not before the court. The purpose of levying cess is for meeting the salary and other payments to the workers of different pools and for no other purpose. But, still workers suffered retrenchment while cess collection continued. But the pity is that the Cochin Port Trust which ordered cess collection is not a party to the reference. The *Chakravorty Award* was not sought to be enforced either by the union or by workers. The managements in this case are not parties to *Chakravorty Award.* The decision in Ext. M10 proceedings was unilateral (by the Chairman of CPT). The union which claims to be the champion of the cause of workers is also not a party to the reference. Failure to implement award, settlement or agreement is no doubt an unfair labour practice falling under item 13 of part 1 of Vth Schedule of I.D. Act. But, then to say that there is failure to implement award, settlement or agreement the concerned parties are not there in the party array.

18. However the hard circumstances confronted by the workers, cannot obviate or prevent retrenchment or make the retrenchment illegal, as is was done on account of surplus labour.

19. A notice of retrenchment was given before retrenchment. The notice was issued on 29-7-2002 and put up on notice board of United Stevedores Association office. Ext. M19 is retrenchment notice put up on the notice board on 29-7-2002. Ext. M20 is an individuals notice sent to one of the workers offering also retrenchment compensation by cheque. Similar individual notices were issued to all workers. Copies of these notices are Exts. M20 (a) to (m). Ext. M21 series are returned covers sent to the workers by speed post and courier service. Except one notice all other notices were refused by the workers. Notices were dispatched on 29-7-2002. Moreover the workers have admitted that a notice was put up on the notice board on 29-7-2002 which prompted them to file writ O.P. Thus the management has complied with the procedure u/s-25F of I.D. Act for retrenchment. Therefore there is no illegalty in the retrenchment.

20. There is a contention by the workers that the rule of 'last come first go' u/s-25G of I.D. Act was not followed by the management. The allege that seniority was overlooked while retrenching. Ext. M3 is the seniority list prepared in 1993 and Ext. M18 in 2002. Ext. M18 is disputed by the workers as not reflecting the actual seniority. However, according to the management, Ext. M18 seniority list was prepared according to the details furnished by the unions and not done by the management by itself. If the workers had any grievance regarding seniority and if they had put in more years of wok than others under different stevedores they could have furnished the details or the unions could have furnished such details. But the unions representing the workmen had furnished the draft seniority list of workers which was accepted by the management. That is how Ext. M18 was prepared and published (vide pages 17, 18 & 19 of MW1). The workers however have not been able to show that the seniority of anyone of them was upset or overlooked by the management. In the absence of any contra evidence Ext. M18 seniority list cannot be dubbed as arbitrary or favourable to someone. Following Ext. M18 list the junior-most 23 workmen were retrenched. There is no illegalitv in the action. Therefore I find that the retrenchment or denial of employment and wages is legal and justifiable.

21. Point No. (3) :

In the light of the above findings it follows that the workers are not entitled for any relief. It is needless to say that the offer of retrenchment compensation is still available to those retrenched workers who have not accepted the same.

22. In the result, an award is passed findings the denial of employment and wages or retrenchement is in accordance with the provisions of Industrial Disputes Act and the action of the managements is legal and justifiable and the workers are not entitled to any relief. The parties will suffer their respective costs. The award will take effect one month after its publication in the official Gazette.

Dictated to the personal Assistant, transcribed and typed by her, corrected and passed by me on this the 23rd day of January, 2007.

P.L. NORBERT, Presiding Officer

APPENDIX

Witness for the workmen:

WW1 — Shri K.S. Samson

WW2 — Shri R. Gopi

WW3 — Shri K.X. Francis

WW4 — Shri Jamal Kunju

WW5 — Shri C.O. Standley.

Witness for the management:

MW1 — Shri M.G. Uma Maheswaran

Exhibits for the workman:

W1 — Certified copy of O.P. No. 22078/02 dated 1-8-2002 filed before High Court of Kerala.

W1(a)— Photostat copy of Memorandum of Settlement dated 19-6-1993.

W1(b)— Photostat copies of wharf entry passes issued to workmen.

W1(c)— Photostat copy of letter dated 12-5-1995 issued by Chairman, Cochin Port Trust.

W1(d)— Photostat copy of letter dated 31-5-2002 from workmen to Chairman, Cochin Port Trust.

W1(e)— Photostat copy of letter dated 30-7-2002 from the President, Cochin Port Trust,Thozhilali Union to Chairman, Cochin Port Trust.

W1(f)— Photostat copy of details of weekly off and shift of High slacking workers as on 1-8-2002 published by Hash & Company.

W1(g)— Photostat copy of Retrenchment Notice dated 29-7-2002 published in Notice Board.

W2— Photostat copy of order dated 2-8-2002 in O.P. 22078/02 of High Court of Kerala.

W3— Photostat copy of order dated 14-8-2002 in O.P. 22078/02 of the High Court of Kerala.

W4— Photostat copy of Petition (CMP. 54295/02) dated 29-10-2002 in O.P. 22078/02 before the High Court of Kerala.

W5— Photostat copy of Affidavit dated 29-10-2002 filed in O.P. 22078/02 before the High Court of Kerala.

W5(a)— Photostat copy of Notice dated 24-8-2002 issued by Hash & Company.

W5(b)— Photostat copy of wages statement of workmen (7Nos.)

W6— Photostat copy of Memorandum of Settlement dated 14-10-1995.

W7— True copy of order dated 17-2-1995 in WP (C) No. 30363/04 of the High Court of Kerala.

W8— Photostat copy of I.A. 3309/05 dated 25-2-2005 in W.P.(C) 30363/95 filed before the High Court of Kerala.

W8(a)— Photostat copies of wage statement of workmen series (25 Nos.)

W8(b)— Photostat copy of judgement dated 3-12-2004 in W.P.(C) 290195/04 of the High Court of Kerala.

W8(c)— Photostat copy of letter dated 25-2-2002 issued by Hash & Co. to Manager, Punjab National Bank.

W8(d)— Photostat copy of statement of term loan account in r/o C.O. Stanley issued by Manager, Punjab National Bank, Kochi-2.

W9— certifed copy of judgement dated 28-2-2005 in W.P. (C). 30363/04 of the High Court of Kerala.

W10— Photostat copy of details of bonus for the year 2002-03 paid to retrenched workers dated 23-5-2003.

W11— Photostat copy of deaily return of Cochin Port Container High Stacking Workers Pooling Scheme dated 24-7-2004, 2-8-2004 and 5-8-2004.

W12— Photostat copies of wages statement of workmen (10 Nos.)

W13— Photostat copy of daily return of Cochin Port Container High Stacking Workers Pooling Scheme dated 1-4-2005.

W14— Wage statement of Workmen (25Nos.)

W15— Photostat copy of judgement dated 27-6-2003 in O.P. 22078/02 and CCC. 650/03 of the High Court of Kerala.

W16— Certified copy of counter affidavit dated 3-11-2003 in I.A. 13435/03 in O.P. 22078/02 before the High Court of Kerala.

W17— Certfied copy of I.A. 16151/03 dated 15-12-2003 in O.P. 22078/02 filed before High Court of Kerala.

W18— Order in I.A. 16151/03 dated 19-12-2003 in O.P. 22078/02 of the High Court of Kerala.

W19— Certified copy of I.A. 125[illegible]04 dated 27-1-2004 in O.P. 22078/02 filed before High Court of Kerala.

W20— Certified copy of I.A. 4963/04 dated 3-4-2004 in O.P. 22078/02 filed before High Court of Kerala.

W20— Certified copy of I.A. 4963/04 dated 03-04-2004 in O.P. 22078/02 filed before High Court of Kerala.

W20(a)— Photostat copy of OM No. L.39011-R. B-II dated 19-1-2004 issued by Ministry of Labour & Employment to M/o Surface Transport (Shipping).

W21— Photostat copy of counter affidavit dated 23-6-2003 field by Chairman, Cochin Port Trust in CCC No. 650/03 of the High Court of Kerala.

W22— Copy of counter affidavit dated 24-6-2003 filed by ALC (C) in CCC. 650/03 before the High Court of Kerala.

W23— Certified copy of reply affidavit dated 7-4-2003 filed by the workmen in O.P. 22078/02 before of the High Court of Kerala.

W24— Certified copy of judgement dated 3-12-2004 in WP (C) No. 29095/04 of the High Court of Kerala.

W25— Certified copy of WP (C) No. 30363/04 dated 14-10-1994 filed before the High Court of Kerala.

W25(a)— Certified copy of counter affidavit dated 29-1-2005 filed by Shri Jamal Kunju in WP (C) No. 30363/04 before the High Court of Kerala.

W25(b)— Reply affidavit dated 3-2-2005 filed by workmen in WP (C) No. 30363/04 before the High Court of Kerala.

W26— Photostat copy of letter dated 15-4-2005 issued by Hash & Co. to Shri C.O. Stanley.

W27— Notice dated 28-4-2005 issued by United Stevedores Association of Cochin (P) Ltd.

W28— Metro Manorama dated 16-2-2005-part of Malayala Manorama Daily.

W29— Letter No. KR/Cash-2/KCH-13/P1 No. 877 dated 30-8-2004 issued by EPFO of Kerala to workmen (7Nos.)

W30— Income Tax Return filed by Shri K.S. Samson dated 29-7-2002.

W31— Photostat copy of failure of conciliation report dated 29-12-2003 forwarded to the Government by ALC (C).

W32— Photostat copy of Memorandum of Settlement dated 12-11-1992.

W33— Photostat copy of proceedings of arbitration between Asian Terminals and Unions At Cochin Port Trust dated 15-10-1997.

W34 series— Photostat copy and originals of daily return and booking slip of Cochin Port Trust Container High Stacking Workers Pooling Scheme.

W35— Receipt dated 15-6-2001 issued by Cochin Port Thozhilali Union.

W35(a)— Receipt dated 20-5-2002 issued by Cochin Port Thozhilali Union.

W35(b)— Receipt dated 16-1-1993 issued by Cochin Port Thozhilali Union.

W35(c)— Letter dated 24-1-2001 issued by General Secretary, Cochin Port Trust Thozhilali Union to Shri M.A. Akbar.

W36— Letter dated 3-9-2003 issued by Cochin Steamer Agents Association to ALC (C).

W36(a)— Phototat copy of counter affidvait dated 21-11-2002 filed by Cochin Steamer Agents Association in O.P. 22078/02 before High Court of Kerala.

W37— Written Statement filed by United Stevedores Aoication of Cochin (P) Ltd. Before ALC(C) dated 4-9-2003.

W38— Letter dated 4-9-2003 issued by M/s. Hash & Co. to ALC (C).

Exhibit for the management:—

M1— Photostat copy of Memorandum of Settlement dated 19-6-1993

M2— Photostat copy of proceedings of the Arbitration dated 15-10-1997 between Asian Terminals and Unions at Cochin Port Trust.

M3— Photostat copy of seniority list of workmen as on 20-6-1993.

M4— Photostat copy of letter dated 13-8-1993 issued by United Stevedore of Cochin (P) Ltd.

M5— Photostat copy of letter dated 1-2-1995 issued by United Stevedores of Cochin (P) Ltd. to RLC. (C)

M6— Photostat copy of notice of termination of Memorandum of Settlement, dated 1-2-1995.

M7— Photostat copy of Memorandum of Settlement dated 14-10-1995.

M8— Photostat copy of report the committee contituted to study the issues connected with house stuffing.

M9— Memordandum of Settlement dated 12-11-1992

M10— Photostat copy of letter dated 12-5-1995 issued by Chairman, Cochin Port Trust.

M11— Photostat copy of letter dated 1-12-1997 issued by M/s. Asian Terminal to M/s. United Stevedores of Cochin (P) Ltd.

M12— Photostat copy of letter dated 10-12-1997 issued by Vice President, Cochin Thuramugha Thozhilali Union to M/s. Asian Terminals.

M13— Photostat copy of letter dated 11-12-1997 issued by M/s. Asian Terminals.

M14— Photostat copy of retrenchment notice dated 31-3-1998.

M15— Photostat copy of notice dated 31-3-1998 issued by M/s. United Stevedores Association of Cochin (P) Ltd.

M16— Photostat copy of letter dated 24-1-2002 issued by M/s. United Stevedores Association of Cochin (P) Ltd.

M17— Photostat copy of letter dated 7-2-2002 issued by M/s. Hash & Co. to Secretary, Cochin Steamer Agents Assoication.

M18— Copy of seniority list of high stacking workers as on 28-05-2002 issued by M/s. United Stevedores Association of Cochin (P) Ltd.

M19— Copy of retrenchement notice dated 29-7-2002 issued by M/s. United Stevedores Association of Cochin (P) Ltd.

M20(a) to (m)— (13Nos.): Photostat copy of notice dated 29-7-2002 USAC to workers with banker's cheque.

M21 Series— 7 returned covers and photocopies of 2 courier receipts.

M22— Photostat copy of order dated 2-8-2002 inO.P. 22078/02 of the High Court of Kerala.

M23— Photostat copy of order dated 14-8-2002 in O.P. 22078/02 of the High Court of Kerala.

M24— List showing engagement of permanent container high stacking workers and their leave/ absence during September 2003, October 2003, March 2004, April 2004, January, 2005 and February,2005.

M25— Photostat copy of order dated 19-12-2003 in I.A. 16151/03 in O.P. 22078/02 of the High Court of Kerala.

M26— Photostat copy of order dated 27-6-2003 in CCC No. 650/03 and O.P. 22078/02 of the High Court of Kerala.

M27— Photostat copy of failure of conciliation report dated 29-12-2003 forwarded to the Government by ALC (C).

M28— Photostat copy of O.M. No.39011/1/04-IR (B-I) dated 19-1-2004 issued by M/o L&E to M/o Surface Transport (Shipping)

M29— Photostat copy of letter No. PA/2/TM-04 dated 26-2-2004 issued by Traffic Manager, Cochin Port Trust to President, M/s. United Stevedores Association of Cochin (P) Ltd.

M30— Photostat copy of notice dated 4-7-2003 issued by M/s. United Stevedores Association of Cochin (P) Ltd.

M31— Photostat copy of notice dated 28-4-2005 issued by M/s. United Stevedores Association of Cochin (P) Ltd.

M32— Photostat copy of representation dated 21-2-2005 given by 9 workers who accepted compensation.

M33— Photostat copy of joint letter executed on stamp paper by 9 workers, dated 11-3-1995.

M34— Photostat copy of DD dated 23-2-2005 given to Shri C.O. Stanley along with Statement of accounts.

M35— Photostat copy of judgement dated 28-2-2005 in W.P. (C) No. 30363/04 of the High Court of Kerala.

M36— Photostat copy of letter dated 5-3-1992 issued by Chairman, Cochin Port Trust.

M37— Photostat copy of interim order dated 17-2-2005 in W.P. (C) No. 30363/04 of the High Court of Kerala.

M39— Photostat copy of stamped receipts dated 24-10-2005 by the workman.

M40— Photostat copy of letter dated 30-6-2005 issued by working President of Cochin Port Dockers' Union.

M41 Series— Copy of statement of accounts relating to collection of shortfall in wages to High Stacking workers from August to January, 2002.

M42 Series—Photostat copy of weekly off and shift of high stacking workers issued by Hash & Co. as on 16-8-2002, 16-8-2003, 16-8-2004 & 16-8-2005

M43— Photostat copy of letter dated 3-11-1997 issued by M/s. Asian Terminals to the Secretary, Thuramugha Thozhilli Union.

M43(a)— Photostate copy of representation dated 27-11-1997 submitted by 68 workers to the Chairman, Cochin Port Trust and to the Managing Director, Asian Terminals.

M43(b)— Photostat copy of letter dated 4-12-1997 issued by pool workers to the Chairman Cochin Port Trust and the Chairman Asian Terminals.

नई दिल्ली, 8 फरवरी, 2007

का.आ. 661.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार केनरा बैंक के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधि-करण/श्रम न्यायालय, नं. 1 चंडीगढ़ के पंचाट (संदर्भ संख्या 347/2000) को प्रकाशित करती है, जो केन्द्रीय सरकार को 08-02-2007 को प्राप्त हुआ था ।

[सं. एल-12011/56/2000-आई आर (बी II)]

राजिन्द्र कुमार, डेस्क अधिकारी

New Delhi, the 8th February, 2007

S.O. 661.— In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 347/2000) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, No. 1, Chandigarh as shown in the Annexure, in the Industrial Dispute between the management of Canara Bank and their workmen, received by the Central Government on 08-02-2007.

[No. L-12011/56/2000-IR(B-II)]

RAJINDER KUMAR, Desk Officer

ANNEXURE

BEFORE SHRI RAJESH KUMAR, PRESIDING OFFICER, CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-1, CHANDIGARH

Case No. I.D.No. 347/2000

The Asstt. Secretary,
Canara Bank Staff Union,
C/o Canara Bank,
Jagroan, Ludhiana. Applicant

Versus

Canara Bank, Deputy General Manager,
Staff Circle Office,
81-83 Sector 34, Plot No. 1,
Chandigarh Respondent

APPERANCES :

For the workman : None

For the management : Sh. Ashutosh Vajpayee.

AWARD

Passed on 12-1-2007

Central Govt. vide notification No.-L-12011/56/2000/IR (B-II) 11-9-2000 has referred the following dispute to this Tribunal for adjudication :

> "Whether the action of the management of Canara Bank in transferring Shri R. K. Dhawan, Regional Committee Member from Ferozepur to Mallanwala Khas Branch is legal and just ? If not, what relief the concerned workman is entitled to and from which date ?"

2. The learned counsel for the management request for closing this case as workman appears to be not interested. Workman is not appearing for several dates. The Workman has not appeared for 8 dates continuously and three times notice was issued. He submitted that workman appears to be not interested as he or his advocate did not appear despite court notice for today and for 11-12-06.

3. In view of the above submission and my persual of the record, I found that workman not appeared for last 8 dates except one or two dates. He did not appear on 21-11-06, 11-12-06 and today 12-1-2007. His advocate or any other person not appeared and no application for adjournment has been filed. I agree with the contention of the counsel for the management that workman appears to be not interested to persue with the present reference. No useful purpose will be served in keeping this case pending further. In view of the above, the present reference is returned to the Central Govt. for want of prosecution. Central Govt. be informed. File be consigned to record.

Chandigarh
12-01-2007

RAJESH KUMAR, Presiding Officer

नई दिल्ली, 8 फरवरी, 2007

का.आ. 662.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार यूनियन बैंक ऑफ इंडिया के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, अर्नाकुलम के पंचाट (संदर्भ संख्या 254/2006) को प्रकाशित करती है, जो केन्द्रीय सरकार को 08-02-2007 को प्राप्त हुआ था ।

[सं. एल-12011/86/2003-आई आर (बी-II)]

राजिन्द्र कुमार, डेस्क अधिकारी

New Delhi, the 8th February, 2007

S.O. 662.— In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 254/2006) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Ernakulam as shown in the Annexure, in the Industrial Dispute between the management of Union Bank of India and their workmen, received by the Central Government on 08-02-2007.

[No. L-12011/86/2003-IR(B-II)]

RAJINDER KUMAR, Desk Officer

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, ERNAKULAM

PRESENT

Shri P. L. Norbert, B. A., L.L.B., Presiding Officer

(Wednesday the 31st day of January, 2007)

I. D. 254/2006

(I. D. 30/2004 of Industrial Tribunal, Alpuzha)

Workman/Union : The President,
Union Bank of India Employees Union,
Lakshmy, Layam Road,
Tripunithura-682 301.

Adv. Shri Manoj R. Nair.

Management : The General Manager,
Union Bank of India,
239, Vidhan Bhawan Marg,
Nariman Point,
Mumbai-400 021.

Adv. Shri Ajaya Ghosh

AWARD

This is a reference made by Central Government under Section 10 (1) (d) of Industrial Disputes Act, 1947 for adjudication. The reference is :—

"Whether the action of the management of Union Bank of India in imposing the punishment of withholding of one stagnation increment of Sh. C. A. Jameskutty, Special Assistant is proper and justified ? In not, to what relief Sh. C. A. Jameskutty is entitled ?"

2. This industrial dispute was pending before Industrial Tribunal, Kollam and was transferred to Industrial Tribunal, Alapuzha and then to this court in November, 2006 as per order of the Hon'ble High Court of Kerala.

3. The facts in brief are as follows :—

The industrial dispute is espoused, on behalf of workman, Shri C. A. Jameskutty, Special Assistant of Union Bank of India, by union of bank employees. According to the union, while the workman was working in Kattappana Branch of the bank he was issued with a charge-sheet for certain omissions in the accounts. It was alleged that the workman had influenced the Branch Manager to purchase several cheques in various accounts for the purpose of making personal gain and they were not genuine transactions. There was also discrepancy in the S/B account of the workman. The workman persuaded Branch Manager to sanction various loans to various parties. Without prior permission and sanction leaves were availed by the workman frequently. He was indebted to a chitty company and the company had obtained a decree from the court against the workman. The workman submitted his explanation to the charges. In the disciplinary action punishment of stoppage of 3 increments with cumulative effect and warning were imposed on the workman. Even though an appeal was filed there was no change in the punishment. But, by that time the workman had attained the maximum scale of pay. As per Bipartite Settlement persons who reach maximum scale are entitled for stagnation increments at an interval of 3 years. However the management withheld 3rd, 4th and 5th stagnation increment in the light of the punishment imposed. The Bipartite Settlement does not provide for withholding of stagnation increments as a punishment. Later the management took the stand that the 1st stagnation increment due to the workman can be released only after 3 years from due date. The 1st stagnation increment was due in October, 1988 and was directed to be released only in October, 1991. This is against the provisions of Bipartite Settlement. The action of the management in postponing or withholding stagnation increment is illegal and unjust and violated of Bipartite Settlement. The workman is entitled to get stagnation increments from October, 1988 onwards.

4. The management in their written statement contends that the workman had committed serious irregularities while he was working in Kottayam Branch of the bank during 1981-82. He was placed under suspension on 2-6-1984. Thereafter a charge-sheet was issued to him. A full-fledged domestic enquiry was conducted and he was found guilty of the charges and therefore the disciplinary authority imposed a punishment of stoppage of 3 increments with cumulative effect for the gross misconduct and warning for minor misconduct. The union has not challenged the findings of enquiry officer, but only questioned the punishment. In execution of the punishment imposed the stagnation increment due to the workman in October, 1988 was withheld. The next stagnation increment was due in October, 1991, which was released. It is not correct to say that the order of punishment is not executable since the workman had already reached maximum scale of pay. The bank had sought clarification from Indian Bank's Association (IBA) and the association has clarified that the postponement of stagnation increment by 3 years is in order. Subsequent stagnation increments were sanctioned in 1994, 1997 & 2000. The punishment imposed is in accordance with law and the workman is not entitled for any relief.

5. The only point for consideration in the light of the above contentions and in view of the terms of reference is :

"Whether the punishment of withholding of one stagnation increment is proper and justified?"

6. The Point :

Though the workman, Shri C.A. Jameskutty was charge-sheeted for five different charges, in the domestic enquiry he was found guilty of only two charges. However the finding of enquiry officer is not under challenge. It is only the punishment portion of the disciplinary action that is challenged by the workman through the union. The punishment imposed was stoppage of 3 increments with cumulative effect. The punishment was imposed on 24-12-1985. The delinquent had reached maximum scale of pay on 19-10-1985. Therefore the disciplinary authority withheld one stagnation increment that fell due in 1988 for a period of 3 years. According to the workman this is against the provisions of Bipartite Settlement. The stagnation increment cannot be stopped or withheld by way of punishment. Only the annual increment can be stopped. On the other hand, the management contends that increment mentioned in Bipartite Settlement with regard to punishment is any kind of increment including stagnation increment.

7. It is to be noted that the findings of the enquiry officer is not challenged. The punishment imposed is not one falling u/s-11A of I.D. Act, i.e. discharge or dismissal. Section 11A was incorporated in the statute by Act 45 of 1971 with the object of empowering court to reappraise the evidence adduced in the domestic enquiry and to grant

proper relief to the workman. Until the introduction of S-11A in the statue the court had no power to interfere with the punishment imposed by disciplinary authority. The position is clarified in *Indian Aluminium Co. Ltd Vs. Labour Court, Ranchi* 1991- I-LLJ 328 at 333 (Pat. H.C). Thus the jurisdiction of the court to interfere with the punishment is limited to punishments of dismissal or discharge and not any other punishment. In this case, since the penalty imposed is not one coming under S-11 A of the Act, this court has no jurisdiction or power to modify or interfere with the punishment. As rightly pointed out by the learned counsel for the management the reference, thus, is not maintainable. The position will not change even if the mode of implementing punishment is questioned.

8. Even on merits also the claim of the workman cannot stand. The punishment of stoppage of 3 increments with cumulative effect was imposed as per Clause 19.6 of Ist Bipartite Settlement dated 19-10-1966. Penalty for gross misconduct under Clause 19.6 enumerates 5 kinds of punishments. Clause 19.6 (d) is the relevant clause :

"(d) have his increment stopped :"

The provision does not refer to annual increment. Since the workman had attained the maximum scale of pay before punishment was imposed he was eligible only for stagnation increment which is given in lieu of annual increment once in 3 years. According to the learned counsel for the management the term 'increment' is a generic expression and is wide enough to include not only annual increments, but all kinds of increments. The learned counsel finds support for his contention in the decision in *D. T Ayachit v. Registrar Mysore* HC. 1975 LAB IC 345 para 12 (Kant.HC).

9. In the result, an award is passed finding that the action of the management in imposing the punishment of withholding of one stagnation increment of the workman is proper and justified and the workman is not entitled to any relief. No cost. The award will take effect one month after its publication in the official Gazette.

Dictated to the Personal Assistant, transcribed and typed by her, corrected and passed by me on this the 31st day of January, 2007.

P. L. NORBERT, Presiding Officer

APPENDIX : Nil.

नई दिल्ली, 8 फरवरी, 2007

का.आ. 663.–औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार इंडियन बैंक के प्रबंधतंत्र संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, चेन्नई के पंचाट (संदर्भ संख्या 423/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 08-02-2007 को प्राप्त हुआ था।

[सं. एल-12011/134/2004-आई आर (बी-II)]

राजिन्द्र कुमार, डेस्क अधिकारी

New Delhi, the 8th February, 2007

S.O. 663.— In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 423/2004) of the Central Government Industrial Tribunal-cum-Labour Court, Chennai as shown in the Annexure, in the Industrial Dispute between the management of Indian Bank and their workmen, received by the Central Government on 8-2-2007.

[No. L-12011/134/2004-IR(B-II)]

RAJINDER KUMAR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, CHENNAI

Thursday, the 28th December, 2006

PRESENT

K. Jayaraman, Presiding Officer

Industrial Dispute No. 423/2004

(In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial disputes Act, 1947 (14 of 1947), between the Management of Indian Bank and their workmen)

BETWEEN

The General Secretary,
Indian Bank Employees'
Association .....I Party/Claimant

AND

The General Manager
Indian Bank, Chennai .....II Party/Management

APPERANCES

For the Petitioner : M/s. D. Hariparanthaman. Advocates

For the Management : M/s. T.S. Gopalan, Advacates.

AWARD

The Central Government, Ministry of Labour vide Order No.L-120 11 / 134/ 2004-IR(B-II) dated 20-10-2004 has referred the dispute to this Tribunal for adjudication. The Schedule mentioned dispute is as follows :

"Whether the action of the management of Indian Bank, Chennai, in imposing the punishment of compulsory retirement upon Sri M.Sukumaran, Clerk/ Shroff, Housr Branch of Indian Bank is legal and justified? If not, to what relief the workman is entitled to?"

2. After the receipt of the reference, it was taken on file as I.D. No. 423/2004 and notices were issued to both the parties and they have entered appearance through their advocates and filed their Claim Statement and Counter Statement respectively.

3. The allegations of the Petitioner Union in the Claim Statement are briefly as follows:

The Petitioner union espouses the cause of Sri M. Sukumaran, Clerk/Shroff, the concerned workman in this dispute, who joincd the services of II Party/ Management on 30-3-76 and he had put in 25 years of

service and he was lastly employed in Hosur branch of the Respondent/Bank from July, 1989. On 5-1-2000 when the permanent payment cashier namely Mr..Muralidharan was on leave, the concerned workman was assigned the work in payment counter. While so, in the receipts counter No.1, Mrs. Chandrika was working. At the commencement of the day, she informed the concerned employee that as she wanted to finish the work early, she requested him to exchange unstitched sections for stitched sections for making payment. But for these incidents, no recording was done in any register as there was no practice of such recording till 5-1-2000. There was no instruction from the management to maintain such register and there was no office order or direct instruction to maintain the register. On that day in the morning one Mr. Sivaprakash, staff of the same branch wanted to have exchange of Rs. 500 denomination and the concerned employee told him that whenever he received the denomination in Rs. 500 he would give him and around 12.00' clock the concerned workman got a receipt of about Rs. 20,000 with Rs. 500 denomination of 40 pieces. Immediately, he called Mr. Sivaprakash and gave him 400 pieces of Rs. 50 and 20 pieces of Rs. 100 and got exchange of Rs. 500 × 44 pieces and the concerned workman closed his work at 3.15 pm and accounted and tallied the amount which he was entrusted on 5-1-2000. Further, Mrs. Chandrika Nagarajan who was entrusted work in receipt counter No.1 could not tally and account for the amounts received by her on 5-1-2000 and she reported .a shortage of Rs. 25,000. Though the business hours were over by 2.30 pm she could not tally the accounts with the cash, received for the day and she took time upto 4.45 pm to close the accounts and she reported shortage of Rs. 25,000 to the Branch Manager. Even after two persons verified the same and they have also confirmed the shortage at the receipt counter and at that time Mrs. Chandrika Nagarajan informed those officials as if the concened workman Sri Sukumaran did not return Rs. 25,000 given for exchange. Further, she has shown the noting said to have been made by her at the fourth page of her rough cash book and the rounding over the noting 50 × 5. when enquired by the officers, the concerned employee informed him that whatever the amount received from Mrs. Chandrika Nagarajan were retuned back immediately in stitched sections and that the allegation of Mrs. Chandrika Nagarajan that he did not return Rs. 25,000 was not correct. When this being the fact, it seems Mrs. Chandrika Nagarajan had given a complaint on 5-1-2000 to Regional Manager alleging as if she gave Rs. 4,75,000 to Mr. Sukumaran for exchange of stitched sections but the concerned employee returned Rs. 4,50,000 and did not return Rs. 25,000 and that was why the shortage of Rs. 25,000 occurred in her counter on 5-1-2000. Based on her complaint, Sri N.Santhana Gopalakrishnan, Senior Manager, Regional Office enquired about .the shortage that took place on 5-1-2000 and he has reported the matter. Thereafter one Mr. Balraj, Zonal Vigilance Officer., Coimbatore also Came to the branch and enquired about the shortage. While so, the zonal office has issued a memo dated 21-1-2000 to both the concemed employee as well as Mrs. Chandrika Nagarajan as to why disciplinary action should not be taken for the shortage that took place on 5-1-2000. But, the Respondent/Management once again issued another memo dated 3-2-2000 with the same allegation and suspended the concerned, employee pending disciplinary action and they issued charge memo dated 6-3-2000 levelling three charges against the concerned workman and straight away ordered for enquiry into the charges. The first charge framed against the concerned workman is that he failed to maintain the cash movement register and the second charge is that he received Rs. 25,000 from Mrs. Chandrika Nagarajan on 5-1-2000 and refused to return the same when she demanded for returning of the money and thereby caused a shortage of Rs. 25,000. Thirdly, instead of holding excess of Rs. 25,000 in his account, he falsely shown as if the account was tallied with an ulterior motive to conceal the exchange of Rs. 25,000. The enquiry was conducted and six witnesses were examined on the side of the management and ten documents were marked and three witnesses were examined. On the side of the employee and the Enquiry Officer has given the report holding that the concerned workman was guilty of all the three charges. Basing on the' enquiry report, the Disciplinary Authority proposed to impose the penalty of waring for the first charge and dismissal without notice for each of the charges two and three and after following the formalities, he imposed the punishment of warning for the first charge and dismissal without notice for the other two charges. Even the appeal preferred by the concerned employee was not considered properly and the Appellate Authority modified the punishment for charges 2 and 3 from dismissal without notice into compulsory retirement. The punishment imposed by the Disciplinary Authority and the findings given by the Enquiry Officer are perverse and without any basis. Even at the time of issuing charge memo, the management has come to the pre and final conclusion, hence, it is mala fide and it will vitiate the enquiry and the entire disciplinary proceedings. When Mrs. Chandrika Nagarajan herself admitted the shortage and gave the S.R. II vouchers for shortage the entire charge memo issued to concerned workman has no independent leg or basis to stand. When there were two disputed versions one on the side of the concerned employee and the other on the side of Mrs. Chandrika Nagarajan , initiation of disciplinary action only against the concerned workman is mala fide. Instead of holding a joint enquiry and finding out whose version was correct, ordering, for enquiry only against one person is illegal, mala fide and unsustainable. The findings of Enquiry Officer that concerned workman alone was responsible to maintain the books of account for the entire transaction is against Manual of Instructions, which clearly established the biased and one sided action of the Enquiry Officer. When there was no practice of maintaining any movement register for exchange of money between counters, framing of charge No.1 and the finding is not legal. When there is no clear finding that shortage could have been traced out even if Mrs. Chandrika Nagarajan maintained the cash memo register if the shortage was only due to the exchange of money and under such circumstances the concerned employee alone is singled out for disciplinary action which is discriminatory and when there was no documentary proof for the alleged payment

of Rs. 25,000 in 500×Rs. 50 denomination by Mrs. Chandrika Nagarajan to the concerned employee, it cannot be said that charge Nos. 2 and 3 were proved. Holding guilty of the concerned employee based on the complaint and evidence of co-accused namely Mrs. Chandrika Nagarajan is illegal, malafide and discriminatory. When there is no legal, definite and acceptable evidence for payment of Rs. 25,000 by Mrs. Chandrika Nagarajan , the question of returning the same and question of showing excess or concealment as alleged by charge Nos. 2 and 3 will not arise. In any event, the punishment' imposed on the concerned employee is totally excessive and highly disproportionate particularly when there is no documentary proof for the alleged payment of Rs. 25,000. Hence, for all these reasons, the Petitioner prays to pass an award holding that the action of the Respondent/ Management in imposing the punishment of compulsory retirement on the concerned employee is not legal and consequently, direct the Respondent/ Management to reinstate the concerned employee into service with all consequential relief.

4. As against this, the Respondent in its Counter Statement contended that the Respondent is a nationalised bank having its branches throughout India including one at Hosur. The Respondent/Bank issued written instruction in the matter of handling cash. Every branch maintains a register noting down the cash taken out from safe at the commencement of the banking hours and deposit of cash in safe at the end of banking hours. It is the payment shroff who is responsible to account for cash and who will keep the cash taken out from the safe. After the cash is received and verified, the paying shroff should strike the cash balance and tally it with the actual cash on hand. Then the shroffs made up the sections of 10 pieces, each section should be stitched stapled with all currency notes arranged face upwards and covered with a denomination slip which will cover both the top and bottom of section. The paying shroff has more responsibility than the receiving shroff. On 5-1-2000, the concerned employee was the shroff in payment counter while Mrs. Chandrika Nagarajan and. Mr. Venugopal were in Receipt Counter Nos. 1 and 2 respectively. At the close of the business hours on that day, it was found that there was a shortage of Rs. 25,000 in the cash balance held by Mrs. Chandrika Nagarajan in receipt Counter No. 1. When verification was done, it was reported by Mrs. Chandrika Nagrajan that the concerned workman who was in payment counter had received some sections of currency notes for stitched notes without maintaining any register for the purpose and that for Rs. 500 pieces of 50 denomination notes amounting to Rs. 25,000 given by her in the morning by about 11.30 am, no exchange was given by the concerned workman. On verification of the scroll, it was found that against token No. 606 a payment of Rs. 25,000 was made in the form of five sections of Rs. 50 denomination. The payment was made to one Mr. B.M. Ramachandran and it was made against the cheque dated 5-1-2000 in the current account of K.S. & Co. When the bank officials called on Sri B.M. Ramachandran, he informed them that when he presented his token for payment, the Payment cashier has taken five sections of denomination's from the lady cashier of the adjoining cash counter and out of the five sections, he retained two sections and gave him five sections including two sections stitched bundles. Mrs. Chandrika Nagarajan gave a complaint that on 5-1-2000 she had given the concerned workman Rs. 4.75 lakhs for exchange and Sri M. Balraj Vigilance Officer of the zonal office of Respondent/Bank, Coimbatore visited the branch on 12-1-2000 and investigated the matter and gave a report holding that concerned workman had not at all received 500 pieces of Rs. 50 denomination from Mrs. Chandrika Nagarajan could not be true. On 6-3-2000 charge sheet was issued to concerned workman charging him with misconduct of gross negligence as per para 19.5 (j) of Bipartite Settlement. The enquiry was conducted against him and the Enquiry Officer gave his report on 22-12-2000 holding that all the three charges against the concerned workman were proved. Then the Disciplinary Authority issued a show cause notice proposing the punishment of dismissal for charges 2 and 3 and after the personal hearing, the Disciplinary Authority awarded the punishment of dismissal for charge Nos.2 and 3. The dismissal of the concerned employee is fully justified and valid in law and is not liable to be interfered with for all or any of the reasons urged by the Petitioner union. Even after the incident on 2-12-99 when the concerned employee and Mr. Venugopal was attending the payment and receipt cashiers respectively, the Branch Manager has cautioned both of them to maintain register for exchange .of cash during the course of the day. Even after that the concerned employee has hot 'maintained any register for the exchange of cash. The domestic enquiry conducted against the concerned employee was fair and proper. The charges against the concerned workman were different from the one which was made against Mrs. Chandrika Nagarajan and there was nothing wrong in holding separate enquiries against the concerned workman and Mrs. Chandrika Nagarajan. The disciplinary action was taken against Mrs. Chandrika Nagarajan also and therefore, it is false to allege that she was let off without any punishment. Since the nature of charge levelled against the concerned workman is different, there is no scope for any documentary evidence and the question for consideration before the Enquiry Officer was whether the version of Mrs. Chandrika Nagarajan was supported by independent evidence and if so, whether the concerned workman could be found guilty of the charges. Since the version of Mrs. Chandrika Nagarajan was supported by evidence of Sri B.M. Ramachandran, her version was accepted. The plea that he had sufficient balance to pay Sri B.M. Ramachandran cannot be accepted, since it is clear from the denomination chart that he has no denomination at that time and there was no need for Respondent/Bank to help Mrs. Chandrika Nagarajan and make the concerned workman as scapegoat. Hence, the allegations made by the Petitioner are not true. The misconduct proved against the concerned workman led to Mrs. Chandrika Nagarajan making good the loss of Rs. 25,000 and the punishment given to the concerned employee cannot be said to be harsh or excessive and it cannot be said to be disproportionate to the charges proved against the concerned workman. Hence, for all these reasons, the Respondent prays that the claim may be dismissed with costs.

5. In these circumstances, the points for my consideration are:

(i) "Whether the action of the Respondent/ Management in imposmg the punishment of compulsory retirement upon the concerned employee is legal and justified ?"

(ii) "To what relief the concerned employee is entitled ?"

Point No. 1 :

6. In this case, the admitted case of both sides is that the concerned employee Mr. M. Sukumaran, when he was working as clerk/shroff in Hosur branch on 5-1-2000, he was deputed for payment counter and one Mrs. Chandrika Nagarajan was working as receipt cashier. After the business hours, when the cash was checked, there was a shortage of Rs. 25,000 in the receipt counter and on enquiry, the receipt cashier has 'stated that concerned employee has received Rs. 25,000. In exchange, but he has not given the cash to her. After that the receipt cashier Mrs. Chandrika Nagarajan who was entrusted the work in receipt counter since she has not tallied the account, she has issued SR II voucher for Rs.25,000. After that she made a complaint to the Regional Manager alleging that she gave Rs. 4,75,000 to the concerned employee for exchange of stitched section, but the concerned employee returned only Rs. 4,50,000 and did not return Rs. 25,000 and that was why the shortage of Rs. 25,000 occurred in her account on 5-1-2000. Based on that complaint, the Senior Manager, Regional Office namely Mr. Santhana Gopalkrishnan was deputed for enquiry and after his report one Mr. Balraj, Zonal Vigilance Officer had also enquired into the matter and after that the concerned employee was suspended and a charge sheet was issued to him and enquiry was conducted against him for three charges and in that the authorities, imposed the punishment of compulsory retirement.

7. On the side of the Petitioner Ex. W1 to W14 were marked and on the side of the Respondent Ex. M 1 to M20 were marked. No witness was examined on either side before this Tribunal.

8. Learned counsel for the Petitioner argued that in the domestic enquiry, the findings of the Enquiry Officer must be supported by legal evidence and if the findings given by the Enquiry Officer is perverse, then it will vitiate the disciplinary proceedings. For perversity there is a two fold test namely "(i) where the finding is not supported by any legal evidence at all and (ii) on the basis of material on record, no reasonable person could have arrived at the findings complained of" and the findings recorded in the domestic enquiry can be characterised as perverse only if it is shown that such a finding is not supported by any evidence at all or is entirely opposed to whole evidence adduced before it or no reasonable person could have come to the finding on the basis of the evidence on record. In this case, when there is no record to show that exchange of notes between the two counters and when there is no record to show that what denominations have been exchanged between the two cash counters, the charge framed against the concerned employee that after receiving fifty rupees bundle for Rs.25,000 he has not returned the same itself is without any basis. Further, the findings given by the Enquiry Officer that even in her letter dated 5-1-2000 Mrs. Chandrika Nagarajan informed that she had given five sections of 50 rupees denomination around 11.00 O' clock to the concerned employee and she did not receive the same clearly establish that it is only the concerned employee who has received Rs. 50 denomination and he has not returned the 'same is without any substance. Further, when the concerned employee has stated that one Mr. Sivaprakash wanted to have exchange of Rs. 500 denomination, the Enquiry Officer has come to the conclusion that he has given a false evidence and though he has stated some reasons, they are not valid reasons for denying his evidence. When Mr. B.M. Ramachandran who has stated that he has received Rs. 25,000 with fifty rupees denomination and which was given to him by the payment cashier, getting the amount frorn the lady cashier Mrs. Chandrika Nagarajan, it was believed by the Enquiry Officer on the ground that he is an independent witness. But, on the other hand, on a perusal of the entire evidence of Sri B. M. Ramachandran, it is clearly established that he has given a false evidence with regard to other things and under such circumstances, the reason stated by the Enquiry Officer for rejecting the evidence of Sri Sivaprakash and accepting the evidence of Sri B. M. Ramachandran is not convincing. Therefore, the Enquiry Officer even before the enquiry has come to the conclusion that it is only the concerned employee who has made the wrong and he has enquired into the matter and come to the conclusion that the charges framed against the concerned workman have been proved, He further argued that when the complainant namely Mrs. Chandrika Nagarajan herself has admitted that she has' noted the denomination 50 × 5 and rounding of the same only after verification and found shortage of Rs.25,000, the Enquiry Officer has stated that even while exchange was taken place, the said Mrs. Chandrika Nagarajan has noted the same; which is against the evidence given by Mrs. Chandrika Nagarajan herself. Under such circumstances, the findings given by the Enquiry Officer is perverse and without any legal evidence.

9. But, as against this, learned counsel for the Respondent argued that there is lot of difference between the finding which is not supproted by legal evidence and the finding which may appear to be not supported by sufficient evidence or may be based in inadequate or unsatisfactory evidence and a finding cannot be described to be perverse merely because it is possible to take a different view on the evidence nor can a finding be called perverse because in certain matters, the line of reasoning adopted by Enquiry Officer is not very cogent or logical. In this case, though it is alleged that reasoning given by the Enquiry Officer is not sufficient, it cannot be said that. there is no legal evidence to come to the conclusion that the concerned employee has done the mischief. Only from the complaint made by the Mrs. Chandrika Nagarajan, it was found that fifty rupees denomination in ten sections were given to the concerned employee and it was not returned and in the complaint, she has categorically stated

that Rs. 4,75,000 was given in exchange and the concerned employee has returned only Rs. 4,50,000 by stitched bundles and from the Senior Manager's report and from the Vigilance Officer's report, the Respondent Bank has come to the *prima-facie* conclusion that the shortage was only due to the concerned employee and the charge was framed against him and on that ground, it cannot be said that there is no basis for framing charge against the concerned employee and therefore, he argued that the findings given by the Enquiry Officer and the imposition of punishment is appropriate and it cannot be questioned before this forum.

10. Though I find some force in the contention of the learned counsel for the Respondent, on a perusal of the entire documents, I find the findings given by the Enquiry Officer is not only perverse but also without any legal evidence. Because, in this case, the complainant namely Mrs. Chandrika Nagarajan while she was examined as MW5 has stated that she has no record to show how much amount has been exchanged between her and the concerned employee and she also stated that after tallying her receipts denomination wise, she was making out that Rs. 4,75,000 was given to the concerned employee in exchange of which he had given Rs. 4.5 lakhs of Rs. 100 stitched notes from which she can confirm that she has received only Rs. 4.5 lakhs cash for Rs. 4.75 lakhs and she further stated that about the notation on the top of the rough cash book, when they were making exchange, in some occasions, the concerned employee gave the cash immediately and in some cases it was delayed and in that case, it was written on the top of the register and for that she had mentioned the notation. Further, she has stated that she noted this 50 × 5 on the top of the register and when she was asking the concerned employee that money was not given back to her for that transaction, for which she had put up a circle around that note in front of the concerned employee. Under such circumstances, it cannot be said that only Rs. 50 denomination was exchanged and it was not returned to her. Though the Vigilance Officer has enquired Mr. B. M. Ramachandran subsequently and has come to the conclusion that only Rs. 25,000 of fifty rupees denomination was given to him and which money was received by the concerned employee from Mrs. Chandrika Nagarajan is only on surmise. Because, even though the chart was prepared for denomination wise on 5-1-2000 for the counter of concerned employee, no chart was prepared with regard to Mrs. Chandrika Nagarajan . Further, when the exchange of rupees independently to the counters was not ruled out how the Vigilance Inspector and also Senior Manager had come to the conclusion that the evidence given by Mr. Sivaprakash cannot be believed. Therefore, from the documents produced in this case, I come to a conclusion that even the approach of the Respondent/Bank that only fifty rupees denomination was given on exchange and it was not returned by the concerned employee is without any basis and they have built up the case only on the allegations made by Mrs. Chandrika Nagarajan and the bank has come to the conclusion that fifty rupees denomination alone was exchanged between the concerned employee and Mrs. Chandrika Nagarajan and approached this case with perversity. When there is no proof with regard to exchange of notes and when there is no proof how much amount has been exchanged between the concerned employee and Mrs. Chandrika Nagarajan, it cannot be said that only fifty rupees denomination alone was exchanged and that too Rs. 25,000 was given by her for exchange is without any basis and they have approached the customers with a pre-concluded ideas and they have obtained the evidence. For that they have relied on the denomination chart, which cannot be a true one without any proof that no exchange independently cannot be done in these circumstances. Therefore, I find the theory of fifty rupees denomination alone was exchanged between the concerned employee and Mrs. Chandrika Nagarajan is a false one and the Respondent/Bank approached the case with a preconcluded theory. Further, when Mr., Sivaprakash a co-employee deposed before the Enquiry Officer that he has exchanged fifty rupees denomination in exchange of Rs. 500 notes from the concerned employee, it was rejected by the Enquiry Officer on the ground that when he asked for exchange of currency, the concerned employee informed that he was not having the same at that time, which according to the Enquiry Officer is a false one because when he alleged to have asked for exchange at 10.30 am, the Enquiry Officer has come to the conclusion that the concerned employee must have five hundred rupees denomination and therefore, his evidence cannot be accepted is without any substance because, learned counsel for the Petitioner has clearly stated that at that time when Mr. Sivaprakash approached for exchange of notes, there was no loose five hundred rupee notes and he has got only stitched bundles and therefore, he asked Mr. Sivaprakash to wait for some time and whenever he receives denomination he will pay the same, which can be a possible answer for the same. But, on the other hand, the Enquiry Officer has totally rejected the evidence of Mr. Sivaprakash on the ground that both the concerned employee and Mr. Sivaprakash are in one union and Mrs. Chandrika Nagarajan was in rival union and therefore, his evidence is an interested one and he said it is an afterthought. But, even at the time of giving explanation, the concerned employee has given the explanation that Mr. Sivaprakash approached him for exchange of notes and he has made the same. Therefore, it cannot be said as an, afterthought. Similarly, Mr. B.M. Ramachandran has stated that he has given a statement after the receipt of money which cannot be a true statement because shortage of money was found out only at 4.30 pm and no one has approached the said B.M. Ramachandran at that time and only the Vigilance Officer after a week's time has approached Mr. Ramachandran and obtained the evidence. When such is the fact it cannot be said that Mr. B.M. Ramachandran has given a true statement with regard to exchange and the reason given by the Enquiry Officer for accepting the evidence of Mr. B.M. Ramachandran and rejecting the evidence of Mr. Sivaprakash is without any substance. Under such circumstances, the finding given by the Enquiry Officer is a perverse one and without any legal evidence.

11. I find much force in the contention of the learned counsel for the Petitioner. As I have already stated that when there is no proof to show that only fifty rupees denomination has been exchanged between the concerned employee and Mrs. Chandrika Nagarajan, it cannot be said

that only fifty rupees denomination notes alone were exchanged and were not returned to Mrs. Chandrika Nagarajan is without any substance. Further, preparing denomination chart according to their whims and fancies clearly proves that they have come to the conclusion that it is only the concerned employee who has done the mischief and therefore, the approach of Respondent to the case itself is perverse. As such, I find this point in favour of the Petitioner and against the Respondent/Management.

Point No. 2

The next point to be decided in this case is to what relief the Petitioner is entitled?

12. In view of my foregoing findings that the action of the Respondent/Management in imposing the punishment of compulsory retirement on the concerned employee is not legal and justified, I find the concerned employee is entitled to the relief as prayed for. Therefore, I direct the Respondent/Management to reinstate the concerned employee into service with continuity of service, back wages and other attendant benefits. No Costs.

13. Thus, the reference is answered accordingly.

(Dictated to the P.A. transcribed and typed by him corrected and pronounced by me in the open court on the day the 28th December, 2006.)

K. JAYARAMAN, Presiding Officer

Witnesses Examined:—

On either side : Nil

Documents Marked:—

For the I Party / Petitioner:—

Ex.No.	Date	Description
W1	21-02-00	Xerox copy of the memo issued by Respondent to Concerned employee
W2	29-09-00	Xerox copy of the summing up of Presenting Officer
W3	29-12-00	Xerox copy of the memo issued by Disciplinary Authority
W4	24-03-01	Xerox copy of the 2nd show cause notice issued to concerned Employee
W5	28-05-03	Xerox copy of the industrial dispute raised by concerned Employee
W6	23-07-03	Xerox copy of the remarks filed by II Party / Management
W7	11-08-04	Xerox copy of the failure report
W8	Nil	Xerox copy of the summing up of defence submitted in Domestic enquiry
W9	29-01-00	Xerox copy of the explanation given by concerned employee
W10	12-04-01	Xerox copy of the explanation given by concerned employee
W11	31-05-01	Xerox copy of the appeal preferred by concerned employee to the Appellate Authority
W12	07-05-02	Xerox copy of the letter from concerned employee to Appellate Authority
W13	19-08-02	Xerox copy of the letter from concerned employee to Appellate Authority
W14	23-08-02	Xerox copy of the letter from concerned workman to Respondent regarding personal hearing.

For the II Party/Management:—

Ex.No.	Date	Description
M1	07-12-99	Xerox copy of the letter from concerned employee to Senior Manager, Hosur branch
M2	05-01-00	Xerox copy of the complaint letter of Mrs. Chandrika Nagarajan to Regional Manager, Dharmapuri
M3	06-01-00	Xerox copy of the reply of Mrs. Chandrika Nagarajan to Show cause notice
M4	06-01-00	Xerox copy of the letter from Senior Manager to Regional Manager of Respondent Bank
M5	14-01-00	Xerox copy of the letter from Vigilance Officer to Z.O
M6	02-02-00	Xero copy of the letter from Senior Manager to Vigilance Cell
M7	03-02-00	Xerox copy of the show cause notice issued to Concerned employee
M8	01-03-00	Xerox copy of the reply to show cause notice
M9	06-03-00	Xerox copy of the charge sheet issued to concerned Workman
M10	22-12-00	Xerox copy of the enquiry finding
M11	29-09-00	Xerox copy of the comments on enquiry findings
M12	20-04-00	Xerox copy of the documents filed before enquiry
M13	12-04-01	Xerox copy of the enquiry proceeding
M14	24-03-01	Xerox copy of the letter from Disciplinary Authority to concerned employee
M15	17-04-01	Xerox copy of the order of Disciplinary Authority
M16	13-08-01	Xerox copy of the proceedings of Appellate Authority
M17	25-08-03	Xerox copy of the order of Appellate Authority
M18	17-04-01	Xerox copy of the order of punishment issued to Mrs. Chandrika Nagarajan
M19	10-01-00	Xerox copy of the investigation report of Senior Manager
M20	25-08-03	Xerox copy of the order of Appellate Authority

नई दिल्ली, 8 फरवरी, 2007

का.आ. 664.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार स्मॉल इंडस्ट्रीज डवलेपमेन्ट बैंक ऑफ इंडिया के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, अर्नाकुलम के पंचाट (संदर्भ संख्या 184/2006) को प्रकाशित करती है, जो केन्द्रीय सरकार को 8-2-2007 को प्राप्त हुआ था ।

[सं. एल-12012/58/99-आई आर (बी-II)]

राजिन्द्र कुमार, डेस्क अधिकारी

New Delhi, the 8th February, 2007

S.O. 664.— In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 184/2006) of the Central Government Industrial Tribunal-cum-Labour Court, Ernakulam as shown in the Annexure, in the Industrial Dispute between the management of Small Industries Development Bank of India and their workmen, received by the Central Government on 8-2-2007.

[No. L-12012/58/199-IR (B-II)]

RAJINDER KUMAR, Desk Officer

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, ERNAKULAM

PRESENT

Shri P. L. Norbert, B.A., LL.B., Presiding Officer

(Wednesday the 31st day of January, 2007/11th Magha, 1928)

I.D. 184/2006

(I.D. 45/99 of Labour Court, Ernakulam)

Workman : Shri Sunil Thomas,
Eravelil House, East Odatha,
Kochi-682001.

Adv. Shri H.B. Shenoy

Management : The General Manager,
Small Industries Development,
Bank of India, Mercy Estate, Ravipuram,
Kochi-682015.

Adv. Shri C. Anil Kumar.

AWARD

This is a reference made by Central Government under Section 10 (1) (d) of Industrial Disputes Act, 1947 to this Court for adjudication. The reference is :

"Whether the action of the management of Small Industries Development Bank of India, Ernakulam in terminating the service of workman Shri Sunil Thomas, Driver-cum-Peon w.e.f. 4-6-97 is justified? If not, to what relief the workman is entitled?

2. Though counsel for both sides entered appearance and made representation for the parties for some time, when the matter came up for evidence finally the counsel for the workman reported that he had no instruction from his party. The workman was also absent. The reference was made in 1999. There is no point in keeping the reference pending indefinitely. Since the worker has not made any alternate arrangement either to engage any other lawyer or to make a representation for adjournment it has to be presumed there is no subsisting dispute.

3. In the result, an award is passed finding that the action of the management in terminating the service of workman, Shri Sunil Thomas w.e.f. 4-6-1997 is justified and the workman is not entitled to any relief. No cost.

Dictated to the Personal Assistant, transcribed and typed by her, corrected and passed by me on this the 31st day of January, 2007.

P. L. NORBERT, Presiding Officer.

APPENDIX : NIL

नई दिल्ली, 9 फरवरी, 2007

का.आ. 665.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सी.पी.डब्ल्यू डी. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, नं.-1, नई दिल्ली के पंचाट (संदर्भ संख्या 33/96) को प्रकाशित करती है, जो केन्द्रीय सरकार को 9-2-2007 को प्राप्त हुआ था ।

[सं. एल-42011/7/95-आई आर (डी यू)]

सुरेन्द्र सिंह, डेस्क अधिकारी

New Delhi, the 9th February, 2007

S.O. 665.— In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No.33/96) of the Central Government Industrial Tribunal-cum-Labour in Court, No.1, New Delhi as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of C.P.W.D. and their workmen, which was received by the Central Government on 9-2-2007.

[No. L-42011/7/95-IR (DU)]

SURENDRA SINGH, Desk Officer

ANNEXURE

BEFORE SHRI SANT SINGH BAL PRESIDING OFFICER CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, NO. 1 NEW DELHI

I. D. NO. 33/96

In the matter of dispute between :

Smt. Brahmwati
Through CPWD Mazdoor Union,
E-26(Old Qrtr), Raja Bazar,
Baba Kharak Singh Marg,
New Delhi. Workman

Versus

Director General of Works,
CPWD, Nirman Bhawan,
New Delhi -110001. Management

APPEARANCES:

Shri B.K. Pd. A/R for the workman

Shri Atul Bhardwaj A/R for the management.

AWARD

The Central Government in the Ministry of Labour vide its Order No. L-42011/7/95-IR(DU) dated 27-3-96 has referred the following industrial dispute to this Tribunal for adjudication :—

> "Whether the action of the management of CPWD, New Delhi in terminating the services of Smt. Brahamwati, Sweeper, who is working at Princess Park Hostel and also in not regularizing her services is fair and justified? If not, to what relief the workman conerned is entitled to?

2. The case of workman as culled from record is that this dispute pertaining to the regularization of Brahamwati to the post of sweeper was raised before the Conciliation Officer. The workman Smt. Brahamwati S/o Shri Akal Singh claimed that she was engaged in the month of May, 1987 and worked continuously in 'F' Divison, CPWD posted at Princess Park Hostel, Service Station till 19-4-93 and her services were terminating after she raised a dispute before the Conciliation Officer for regularization of her services which according to the workman is illegal and violative of Section 33 of I.D. Act, accordingly workman claim that action of respondent is in violation of provisions of Section 33A and 25F of the I.D. Act as she was not given any notice, notice pay, gratuity etc. and her services were dispensed with during pendency of the dispute before the conciliation officer as mentioned above. She claims that she was getting Rs. 100 per month as the management treated her as part time sweeper. She also claimed that she was entitled to be regularized in the job as she worked for more than 4 years in view of the Supreme Court Judgement in CPWD Karamchari Union *Vs.* Union of India and others on 25-3-92 and in view of the direction of the Supreme Court in Surender Singh's case wherein the respodnent was directed to pay the petitioners and all other daily rated employees the same salary and allowances as are paid to the regular and permanent employees w.e.f. the date they were respectively employed it is further stated that the Govt. of India has sanctioned 8982 posts for regularization of daily rated workers on 30-9-92 and as per O.M. No. 16/5/68-Estt.(D) dated 5-7-68. The workman who acquires experience of minimum of four years continuous service as part time casual labour in the office/establsihment is eligible for appointment to class IV post borne on regular establishment she is eligible for regular appointment in the month of may, 1991 itself and she should have been treated as part time sweeper. She is also entitled to equal pay for equal work in view of the S.C. judgment. It is also stated that service of many junior persons have been regularized by management and she was discriminated being a female and dhe was given equal treatment resulted showing lack of social justice and was not regularised rather her services were terminated without following the principles of natural justice and her services were terminated. Management has regularized very junior persons which amounts to discrimination. The workman claimant has been performing duties of unskilled nature. She has attained the status of permanent workman as she has completed 90 days of continuous service in view of the Model Standing Orders under the Industrial Employment (Standing Orders) Act, 1946 in Schedule-I, She had been kept on daily rated basis and treated as part time workman arbitrarily only to deny her the privilege and benefits that of a regular/permanent workman. The act of non confirmation by way of regularization of the services and terminating her services w.e.f. 19-4-94 during the pendency of the dispute before the conciliation officer and without serving any notice and notice pay is unjustified and illegal and in violation of principal of law the management had not regularized the services of the workman with a view to exploit her by denying her the benefits and fruits of a regular workman in the time scale which is unfair labour practice under the Fifth Schedule of the Industrial Disputes Act, 1947. The Act of the management is discriminatory and amounts to denial of equal status snd is unlawful. Brahamwati workman is entitled to be confirmed by way of regularisation in service after completion of 90 days in the scale of Rs. 196-232/750-940 and also reinstatement in service with full back wages and continuity of service and all consequential benefits w.e.f. 19-4-94 as her services were terminated without following the provisions of natural justice she has also prayed for the award/order which this Hon'ble Court may deem fit and proper.

3. The case has been constested by the management by filing written statement denying her claim for regularisation and retinstatement stating therein that she was engaged as sweeper as claimed it is stated that she was only a casual worker just like sweeper working in various houses. She was visiting CPWD Sub Division of Princess Park Hostel only for 15-30 minutes in a working day for sweeping as a part of her routine cleaning work of visiting various houses in the same residential colony as she was working in various houses in the Princess Park Hostel of Officers' flats. Since she was only a very casual worker just like sweeperess and as such when the CPWD Sub Division shifted from Princess Park Hostel, her services as a casual worker were not required. She was not regular or even a part-time worker of the department and she was also not employed through any Employment Exchange and as such there is no question of giving notice or consequential benefits to her. It is denied that Brahamwati was working as full time worker. In fact she was working

only as a very casual worker and as such, she was paid Rs. 60 to Rs. 100 PM whenever she worked as a casual worker. She is not covered by the orders of the Supreme Court as claimed. She is also not entitled to grant of any of the post out of 8982 posts which are meant for regular daily rated workers. In veiw of the direction of the Supreme Court she is also not covered by the order of the Ministry of Home Affairs Memo No. 16/5/68-Estt (D) date 5-7-68 as she was not appointed through employment Exchange or was a very casual worker only. It is also stated that no post for regular sweeper exist and there was no question of a regular sweeper in the department. She was not regular worker, part time worker nor appointed through Employment Exchange and post did not exist at all and she is not entitled to regular employment. She is also not covered for equal pay for equal work S.C. judgement directing equal pay for equal work. It is denied that any discrimination has been caused to the claimant as claimed and she is not entitled to the regular pay scale nor she is entitled to reinstatement as claimed. It is denied that the workman was connected with the construction maintainance of the building she was visiting Sub Division Office for 15 minutes in a working day and the sweeping; job done by her cannot be called job covered under minimum wages Act. She is not entitled to reinstatement and the other averments made are also denied stating that the claimant is not entitled to the claim of regularisation of reinstatement.

4. Written Statement was followed by rejoinder wherein controverted paras were denied as wrong and sstatement of claim was reaffirmed to be correct.

5. Thereafter management examined Shri O.P. Tripathi Executive Engineer as MW1 in evidence and closed its evidence. Workman examined herself as WW1 and closed her evidence.

6. Thereafter arguments were addressed at length on behalf of the management.

7. I have given my thoughtful consideration to the contentions raised on either side and perused the record meticulously.

8. From the statement of the workman who examined herself as WW1 as well as that of Shri O.P. Tripathi Executive Engineer of the respondent who was examined MW1 it is evident that the workman claimant worked as sweeper for 15 to 30 minutes during working days with the respondent during the period w.e.f. 1988 to 1994.

9. And that from the deposition of the executive engineer the following facts emerges that the workman claimed that she worked as a sweeper with the respondent for 15 to 30 minutes every day during the working days with the respondent that she was paid Rs. 60 to Rs. 100 PM. That she worked very occasionally and not as a regular worker i.e. to say that she was not employed on part time or daily wages basis or either on part time basis or on regular basis. She also worked as sweeper in other houses of the locality, that her services came to an end when the office of the respondent was shifted from Princess Park Hostel.

10. From the above facts it is evident that the claimant worked as a sweeper. She did sweeping work with the respondent for a short time of 15 to 30 minutes and was not engaged or employed either on daily wages basis or on temporary or part time basis as claimed.

11. There is no material on record to show that there existed/exist any sanctioned/regular post of sweeper with the respondent.

12. In view of the above discussions I am of the opinion that claimant Smt. Brahamwati was not a casual worker with the respondent and as such she is not entitled to reinstatement. There is no violation of such provisions of section 25F of the I.D. Act. Her job came to an end after shifting of office. Hence she is not entitled to reinstatement and any back wages The reference is thus answered and award is passed accordingly. File be consigned to record room.

Dated 7-2-07 S.S. BAL, Presiding Officer

नई दिल्ली, 9 फरवरी, 2007

का.आ. 666.–औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार नेवीवली लीगनीटी को-ओपरेशन लिमिटेड के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण चेन्नई के पंचाट (संदर्भ संख्या 425/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 9-2-2007 को प्राप्त हुआ था ।

[सं. एल-22012/13/2004-आई आर (सी-II)]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 9th February, 2007

S.O. 666.— In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No.425/2004) of the Central Government Industrial Tribunal-cum-Labour Court, Chennai as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of Neyveli Lignite Corporation Ltd. and their workmen, which was received by the Central Government on 9-2-2007.

[No. L-22012/13/2004-IR (C-II)]

AJAY KUMAR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, CHENNAI

Wednesday, the 20th December, 2006

PRESENT

K. Jayaraman, Presiding Officer

Industrial Dispute No. 425/2004

(In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), between the Management of Neyveli Lignite Corporation Ltd. and their workman)

BETWEEN

The General Secretary,
NCL Worker Progressive Union ...IParty/Petition

And

1. The Chief General Manager, Mines-I,Neyveli Lignite, Corporation Ltd, Neyveli.
2. The Deputy Superintendent/ Western Flank, Mines-I, Neyveli Lignite Corporation Ltd. Neyveli.
3. The Deputy Superintendent/ GWC & Drills, Mines-I, Neyveli Lignite Corporation, Ltd. Neyveli
4. The Director (Personnel), Neyveli Lignite Corporation, Ltd Neyveli.. ....IIParty/Management

APPEARANCE:

For the Petitioner : M/s. M. Muthupandian Advocates.

For the Management : M/s. N. A. K. Sarma, Advocates

AWARD

The Central Government, Ministry of Labour *vide* Order No. L-22012/13/2004-IR(CM-II) dated 4-11-2004 has referred the dispute to this Tribunal for adjudication. The Schedule mentioned dispute is as follows :—

> "Whether the action of the management of Neyveli Lignite Corporation Ltd., Neyveli in imposing the punishment of reduction of one increment with cumulative effect to three workmen *viz.*, S/Shri R. Selvarju, CPF No. 27907, Tech. Gr.. IA, now working as SME Opt./Tr. Western Flank, Mine I, A. Pitchamuthu, CPF No. 25607 Tech. Gr.I B, G.W.C. and Drills. Mines I and V. .Mark, CPF No. 25602 Tech. Gr. II 'B' G.W.C. Drills, Mines I, as legal and justified? If not, to what relief the workman are entitled?"

2. After the receipt of the reference, it was taken on file as I.D. No. 425/2004 and notices were issued to both the parties and they have enetered appearances through their advocates and filed their Claim Statement and Counter Statement respectiely.

3. The allegations of the Petitioner Union in the Claim Statement are brifly as follows :—

Though the Petitioner Union espuses the cause of three workman before the concilation proceedings, before this Tribunal, the Petitioner Union espouses the cause of only Mr. R. Selvaraju, the concerned employee in this dispute. The concerned employee joined the respondent/ Bank as fitter on 28-6-84 and he was promoted to the post of Technician Grade IA. He was one of the persons handling bore well drilling work entrusted to one contractor by name Mr. Lakasmipathy. It appears that the contractor regarding demand for illegal gratification by Mr. Rajendran made a complaint. It also appears that two workman namely Pichaimuthu and K. Ramachandran had admitted demanding and receiving a sum of Rs. 1000 as Ayutha Pooja expenses and Rs. 500 as tips. While so, the concerned employees was issued with show cause notice dated 10-5-99 by the 3rd respondent alleging that all the six workman had demanded amount from the contractor. Though the concerned employee denied the allegation, domestic enquiry was orderd to be conducted against the six employees. Though the Disciplinary Authority orderd separate enquiry against six employees, the Enquiry Officer called all the six employees and attempted to hold a joint enquiry, even after the protest made by the concerned employee. In the enquiry, statement of witness were not given to the concerned employee and no attempt was to produce any of the witness who had given statements during preliminary enquiry for cross examination. Further, in view of the joint enquiry, the concerned employee was deprived of an opportunity to cross-examine Mr. Pichaimuthu and K. Ramachandran and their statements could not have been relied upon in the absence of independent corroboration. Further, the Disciplinary Authority instead of calling upon him to submit his explanation/objection to the findings of Enquiry Officer before arriving at any decision, he was called upon to make a representation against the punishment proposed. Therefore, the Enquiry Officer has made a grave illegalities in the procedure adopted and total lack of evidence against him and the concerned employee was severely prejudiced by the punishment imposed. Without giving the findings of the Enquiry Officer, the punishment imposed by the 2nd Respondent is contrary to law. The Enquiry Officer had erroneously relied on the statements of Sri Pichaimuthu and K. Ramachandran who had admitted their guilt and their statements could not be used against the concerned employee in the absence of their being produced as witness. The Enquiry Officer has no jurisdiction to order a joint enquiry and joint proceedings were conducted in an illegal manner and there was breach of principles of natural justice and the procedure adopted was contrary to law. The failure to examine the contractor Sri Lakshmipathy and the failure to supply statements of Pichaimuthu and Ramachandran had vitiated the enquiry. Even though there is no direct and acceptable evidence with regard to allegation of illegal gratification, the conclusion arrived at by the Enquiry Officer was based on surmises and conjectures. The punishment inflicted on the concerned employee by the Disciplinary Authority is without reasonableness and fair

play. Hence, for all these reasons, the Petitioner Union prays this Tribunal to quash the order impugned as null and void and consequently, direct the Respondent to grant time bound promotion to the concerned employee in the post of Senior Tech. Grade-II and all other attendant benefits.

4. As against this, the Respondent in its Counter Statement contended that Sri R. Selvaraju namely the concerned employee whose cause is espoused by the Petitioner Union is no doubt an employee in Mines I of Respondent/Management. The charge memo dated 4-6-1999 was issued to the concerned employee that he deliberately slowed down the work, demanded and accepted illegal gratification of Rs. 1500 from one Lakshmipathi, a contractor of the Respondent /Corporation. The concerned workman was called upon to submit his explanation the charges and along with the concerned workman five other workmen of Mines I were also engaged in the same work connected with the above contractor's work and they were also issued with charge memos. Out of the remaining five members Sri Pitchaimuthu and K. Ramachandran had admitted receivmg Rs. 1500 each from the above contractor and further stated that the other four workmen including concerned employee of having received similar amounts from the above said contractor. Since the workmen denied the charges, domestic enquiry was ordered to be conducted against him. The enquiry was conducted in a joint manner by the Enquiry Officer as the charges levelled against all the Six workmen were of similar nature. The enquiry was conducted in a fair and proper manner in compliance with all the principles of natural justice. One witness was examined on behalf of the management and nine documents were marked in the enquiry. The Enquiry Officer after careful consideration and due analysis of the evidence adduced before him during the enquiry submitted his findings holding that the charges levelled against the concerned employee have been proved in the enquiry. Basing on the findings of the Enquiry Officer and concurring with the findings, the Disciplinary Authority issued provisional show cause notice dated 12-2-2001. After the receipt of his explanation, the Disciplinary Authority imposed the punishment of reduction of penalty of one increment with cumulative effect. This, punishment is commensurate to the proven charges and therefore, it is fair 'and justified. Though the name of Pichaimuthu is included in the reference, the Petitioner apparently not agitating his case because of the categorical admission made by him with regard to the charges. It is also within the knowledge of the Petitioner Union that the other workman demanded money from the contractor. For this reason alone, the case of the Mr. Mark also not agitated by the Petitioner Union. The Petitioner Union is within the knowledge of the admission made by two workmen namely S/Sri Pichaimuthu and K. Ramachandran demanding and receiving Rs. 1500 each from the contractor. This statement of S/Sri Pichaimuthu and K. Ramachandran cannot be taken in part as against them only, but it is against all the six workmen including the concerned employee R.Selvaraju. No doubt, enquiry was conducted jointly, it is only a matter of convenience, the enquiry was held as a joint one which was recorded by the Enquiry Officer in the enquiry proceedings and acquiesced by all including the workman without, any protest or objection. In fact, the concerned workman never objected to the joint enquiry during domestic enquiry and not even during conciliation proceedings. It is only an afterthought he has raised this plea in the Claim Statement. Though the Petitioner alleged that he has' not given any opportunity to cross examine the witnesses, it was open to the concerned workman to call for witnesses to be produced for his cross-examination which opportunity he did not avail at the time of enquiry. The workman has not established the prejudice caused to him by non-supply of enquiry report at the point of time before submitting his explanation to provisional show cause notice. Therefore, it is reasonable to presume that the workman was not inconvenienced or prejudiced in any way by non-supply of the enquiry report and it is also an afterthought and he has raised this plea in this Claim Statement. The workman did not prefer any appeal against the order of Disciplinary Authority within the time. Therefore, the penalty awarded to the concerned workman is legal and justified and commensurate to the charges levelled and held proved against him. There is no illegality committed and there is no violation of principles of natural justice. In these circumstances, the enquiry conducted was proper, fair and legal. Hence, for all these reasons, the Respondent prays that the claim may be dismissed with costs.

5. In these circumstances, the points for my consideration are : —

(i) "Whether the action of the Respondent/ Management in imposmg the punishment of reduction of one increment with cumulative effect on Sri R. Selvaraju is legal and justified?"

(ii) "To what relief the, concerned, employee is entitled?"

Point No. 1 :

6. The admitted facts in this dispute are though the Petitioner Union espouses the cause of three workmen at the time of conciliation proceedings, before this Tribunal, the Petitioner Union espouses the cause of Sri R. Selvaraju alone and two other workmen are not prosecuting the dispute.

7. The concerned employee Sri R. Selvaraju is an employee in Mines I of the Respondent /Corporation. While he was working as Technician Grade IA in Ground Water Control Division of Mines I and he was awarded with the

penalty of reduction of one increment with cumulative effect by an order of Deputy Superintendent/WF Mines I of Respondent/Management. The charges framed against the concerned employee and five others are that they have demanded illegal gratificationof Rs. 1500 each from the registered contractor of the Respondent corporation. The charge memo was issued on 4-6-99 to the concerned employee and not satisfying with the explanation given by the concerned employee, a departmental enquiry was ordered to be conducted against the concerned employee and five others in which a joint enquiry was conducted, against the concerned employee Sri R. Selvaraju and five others Challenging the order impugned passed, the Petitioner union espouses the cause of concerned employee on the allegation that the order passed by the Disciplinary Authority and the findings given by the Enquiry Officer are vitiated on several grounds.

8. On behalf of the Petitioner union, the concerned employee Sri R.Selvaraju was examined as WW1 and 21 documents were marked as Ex.W 1 to W21 on the side of the Petitioner and on the side of the Respondent one Mr. P. Sankararaj, Senior Personnel Manager was examined as MW 1 and six documents were marked as Ex.M 1 to M6.

9. Learned counsel for the Petitioner attacked the enquiry on the ground that the Enquiry Officer himself has cross examined the concerned workman in the name of elucidation, The questions put by the Enquiry Officer were in fact, not in the form of clarification but by way of close cross examination. Though he recorded the statement of concerned workman and other charge sheeted employees but it was not made known either to the concerned employee or to the other employees as to what was the statement recorded in the case of workman and other charge sheeted employees. Further, he has not stated whether the said statement was going to be relied upon by the II Party/Management in support of the charges or not. The minutes of enquiry proceedings were not given in spite of request made by the concerned employee. He also alleged that even though separate individual charge memo were issued to six workmen, the Enquiry Officer conducted a common enquiry and that too without getting the consent or no objection from the concerned employee. Therefore, he has no jurisdiction to conduct the enquiry by joint trial which is against the principles of natural justice. Further, there is no provision in Standing Order No.47, which deals with procedure regarding conduct of enquiry, Therefore, the common enquiry conducted against the concerned workman and others are illegal and contrary to the certified standing orders. Further, the Enquiry Officer has no authority or powers and he has traversed beyond the orders of Disciplinary Authority and hence, it is illegal and without any jurisdiction. Further, learned counsel for the Petitioner contended that though the vigilance officer who has recorded the statements of witnesses was mentioned as Mr. Sekar and he has not been examined in the enquiry, on the other hand, one Mr. Akbar khan was examined on the side of the management, who has no knowledge about the records of statements and therefore, the Enquiry Officer without following any procedures has relied on the statements and this was in violation of principles of natural justice. Though it is alleged that Sri Pitchaimuthu and Sri K. Ramachandran who were said to have admitted the guilt with regard to receipt of illegal gratification, their statements were relied on by the Enquiry Officer without giving any opportunity to cross examine the said persons. The Enquiry Officer ought to have informed in advance and ought to have given an opportunity to cross examine the said persons, who have given statements against the concerned employee. Similarly, the contractor who has given the complaint, who is a material witness with regard to the alleged demand and receipt of illegal gratification, has not been examined in the enquiry. Therefore, non-examination of contractor namely the complainant would vitiate the enquiry, particularly, when his statement was relied on by the Enquiry Officer, there is breach of principles of natural justice and as such, it would vitiate the enquiry. Further, the Enquiry Officer relied on the documents which are marked or filed before the enquiry. This shows the biased, one sided mind of the Enquiry Officer. The minutes of enquiry was also not given to the concerned employee. In the absence of vigilance officer, the Enquiry Officer has converted himself as prosecutor and closely cross examined the concerned employee in the name of clarification, which is against the procedure. When the management witness have stated that the contractor did not say that he had paid any amount to the workman concerned and when he has stated that he was not aware whether the contractor has paid any amount to the concerned workman or not, it is illegal to hold that the concerned workman has received illegal gratification from the contractor and the Enquiry Officer has not considered the admissions -made in favour of the defence which would vitiate the findings. Though it is alleged in the charge that concerned workman deliberately slowed down the drilling work, the persons who are supervisors and officers, who have got the first information with regard to the work of the concerned employee, have not been examined. Under such circumstances, it cannot be said that the concerned workman has deliberately slowed down the work. Thus, the non-examination of materials witnesses will vitiate the trial. The Enquiry Officer without considering the legal evidence available in the enquiry has given the perverse finding that the charges framed against the concerned employee have been proved. Under such circumstances, the imposition of punishment on the perverse findings of the Enquiry Officer is not legal and not fair.

10. But, as against this, learned counsel for the Respondent argued that though the charges were framed against six persons including the concerned employee, two of the workmen namely Mr.A. Pichaimuthu and

Sri K. Ramachandran admitted the charge of having received Rs. 1500 from the said contractor and further stated that the other four workmen including the concerned employee in this dispute had received similar amounts from the same contractor. The Enquiry Officer on a careful consideration of the material before him including the statements given by the co-workers submitted the enquiry report under Ex. W7 holding that charges levelled against the workmen were proved in the enquiry. Basing on the enquiry report and also considering the evidence before the enquiry, the Disciplinary Authority has imposed the punishment. Though the concerned workman was given an opportunity to prefer an appeal against the punishment, he did not choose to prefer any appeal in the matter either within the time limit or any time thereafter to the Appellate Authority. Further, even though the reference was made against the punishment given against the three workmen, the Petitioner union has taken up the issue in respect of only Sri R. Selvaraju alone, neither the union nor the five out of six individuals challenged the imposition of penalty. Therefore, there is no justification for dealing with the case of concerned employee alone differently when some of the other charge sheeted employees have admitted that Sri R. Selvaraju, the concerned employee has also received the said sum of Rs.1500. The contractor has clearly stated in his complaint that amount was demanded on behalf of the six workmen at the site including the concerned employee Sri R. Selvaraju and as he did not pay the said amount, the drilling work was stopped abruptly and the workmen left the site which caused interruption in silting and, consequent hold up in the work. Out of the six workmen, S/Sri Pitchaimuthu and K. Ramachandran admitted that money was received by them as well as by Sri R.Selvaraju is reliable and it is settled law that such admission by a co-worker who is a co-charged employee and which statement formed part of the record is admissible and can be relied upon in departmental proceedings. Further, in case of accepting illegal gratification direct evidence is almost impossible to come by and a finding guilty is permissible based inherently probable and convincing statements of others. This proposition is clearly held in 1996 II SCC 599. Further, it is well settled proposition that strict rules of evidence is not applicable in a domestic enquiry and mere preponderance of probability is sufficient for arriving at a finding. Learned counsel for the Respondent further contended that no doubt, it is true that the enquiry report was not sent to the Petitioner before 2nd show cause notice calling for representation. But, the concerned workman has not established the prejudice caused to him by non-supply of enquiry report at that point of time and nothing prevented the concerned workman to ask for enquiry report or to have agitated for non-supply of the same at that time itself. But, on the other hand, the concerned workman submitted his explanation to the provisional show cause notice without any protest or objection and having participated in the enquiry was aware and noticed the enquiry report and proceedings. Such a ground was not urged during the conciliation proceedings, therefore, there is no force in the said allegations. In any case, the, enquiry report has been. placed before this Tribunal and the concerned employee has not been able to show how he was prejudiced by the non-supply of enquiry report and he has not shown any defect or procedural violation. Therefore, the penalty awarded on the concerned workman is fair and commensurate with the charges levelled against him. Learned counsel for the Respondent further contended that the scope of Tribunal is to consider the decision making process and not the decision itself, it is not shown before this Tribunal that the Disciplinary Authority's decision to impose the penalty is neither illogical nor had it suffered from procedural impropriety, nor it was shockingly disproportionate to the serious misconduct which involved moral turpitude. Under such circumstances, this Tribunal cannot interfere with the punishment imposed on the concerned employee. Further, he relied on the rulings reported in 2005 (8) SC 134 V. Ramana *Vs.* APSRTS & Others wherein the Supreme Court has held that *"the Court would not interfere with the administrator's decision, unless it was illogical or suffered from procedural propriety or was shocking the conscience of the Court in the sense that it was in defiance of logic or moral standards."* Learned counsel for the Respondent further contended that penalty imposed by the Respondent/Management against the concerned employee is fair and just and there has been no violation of principles of natural justice in the conduct of enquiry or proceedings thereafter. Therefore, the order of penalty passed by the Disciplinary Authority is legal, valid and binding on the concerned workman and is neither arbitrary nor in violation of principles of natural justice. He further relied on the rulings reported in 2001 I LLJ 52 AGM (P) Syndicate Bank and others *vs.* B. K. Mahim in which the Kerala High Court has held that *"the findings in enquiry based on some evidence and in such case, the disciplinary Authority is the sole judge of the facts and the High Court or Tribunal in its power of judicial review not to act as Appellate Authority and it has to ensure only that delinquent receives fair treatment but not that conclusion reached by Disciplinary Authority necessarily correct in the eye of the Court."* Therefore, the order passed by the Disciplinary Authority is legal, valid and binding and this disputes deserves to be dismissed.

11. I find much force in the contention of the learned counsel for. the Respondent because though the Petitioner has raised so many allegations against the procedure before this Tribunal neither the Petitioner union nor the concerned employee has raised any objection with regard to the conduct of domestic enquiry before the domestic authorities. As the learned counsel for the Respondent rightly contended that these allegations are made only as an afterthought and only for the purpose of this. case. No

doubt, the Enquiry Officer relied on the admission made by the co-charge sheeted employees, but, it is well settled that strict principles of Evidence Act is not applicable to domestic enquiry and therefore, the Enquiry Officer has rightly considered the statements given by the co-charge sheeted employees. Under such circumstances, I am not inclined to accept the contention of the learned counsel for the Petitioner that the statement of co-charge sheeted employees should not be taken into consideration by the Enquiry Officer. No doubt, learned counsel for the Petitioner vehemently opposed that Enquiry Officer has no power to conduct the enquiry jointly, but the concerned employee has not objected for joint enquiry at that point of time before the domestic enquiry. Even though the concerned employee has given evidence before this Tribunal that he has objected orally for joint trial, there is no proof or evidence to show that he has objected for the joint enquiry. On the other hand, the Enquiry Officer has recorded this in the minutes and it was signed by the concerned employee and other charge sheeted employees. Under such circumstances, these objections were raised only at the time of enquiry before this Tribunal, as an after thought. Under such circumstances, I find the enquiry was conducted in a fair, just and proper manner and there is no violation of principles of natural justice and it is legal, valid and binding on the workman concerned.

Point No. 2 :

The next point to be decided in this case is to what relief the Petitioner is entitled?

12. In view of my foregoing findings, I find the concerned employee is not entitled to any relief. No Costs.

13. Thus, the reference is answered accordingly.

(Dictated to the P.A., transcribed and typed by him, corrected and pronounced by me in the open court on this day the 20th December, 2006.)

K. JAYARAMAN, Presiding Officer

Witnesses Examined :—

For the Petitioner : WW1 Sri R. Selvaraju

For the Respondent : MW1 Sri P. Sankararaj

Documents Marked :—

For the I Party/Petitioner :—

Ex. No.	Date	Description
W1	10-05-99	Xerox copy of the joint charge memo
W2	04-06-99	Xerox copy of the charge memo given to R. Selvaraju
W 3	16-06-99	Xerox copy of the explanation given to charge memo
W4	31-07-99	Xerox copy of the order of promotion to the post of Senior Technician Gr. II
W5	16-09-99	Xerox copy of the order fixing pay in the promoted post
W6	03-11-99	Xerox copy of the order cancelling promotion of Sr. Tech. II
W7	22-12-00	Xerox copy of the enquiry report
W8	12-02-01	Xerox copy of the show cause notice
W9	21-02-01	Xerox copy of the repl y to show cause notice
W10	04-06-01	Xerox copy of the final order passed in disciplinary proceedings
W11	06-07-01	Xerox copy of the final order passed in disciplinary proceeding in respect of Sri S. Rajendran
W12	30-07-01	Xerox copy of the appeal petition
W13	17-12-02	Xerox copy of the final order passed by Disciplinary Authority in respect of Mr. Rajendran
W14	22-01-03	Xerox copy of the representation given by petitioner to General Manager, Mines
W15	11-03-03	Xerox copy of the representation given to General Manager, Mines
W16	21-03-03	Xerox copy of the application filed before conciliation officer
W17	17-06-03	Xerox copy of the order modifying punishment in respect of S. Rajendran
W18	26-09-03	Xerox copy of the remarks submitted by respondent before conciliation officer
W19	05-04-04	Xerox copy of the failure report
W20	13-03-04	Xerox copy of the representation given to Disciplinary Authority
W21	18-05-04	Xerox copy of the representation given to Appellate Authority.

For the II Party/Management :—

EX.No.	Date	Description
M 1	07-12-2000	Xerox copy of the written statement submitted by Selvaraju before Enquiry Officer
M2	Nil	Xerox copy of the enquiry proceedings
M3	Nil	Xerox copy of the statement of Pitchaimuthu
M4	Nil	Xerox copy of the statement of K. Ramachandran
M5	16-11-98	Xerox copy of the statement of K. Lakshmipathy
M6	22-12-2000	Xerox copy of the clean copy of enquiry report.

नई दिल्ली, 9 फरवरी, 2007

का.आ. 667.—औद्योगिक विवाद अधिनियम, 1947 (1947 की 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार नेवीवली लिगनाईटे कोरपोरेशन लिमिटेड के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, चैन्नई के पंचाट (संदर्भ संख्या 80/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 9-2-2007 को प्राप्त हुआ था ।

[सं. एल-22012/362/2004-आई आर (सीएम-II)]

अजय कुमार गौड़, डेस्क अधिकारी

New Delhi, the 9th February, 2007

S.O. 667.— In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 80/2005) of the Central Government Industrial Tribunal-cum-Labour Court, Chennai as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of Neyveli Lignite Corporation Ltd. and their workmen, which was received by the Central Government on 9-2-2007.

[No. L-22012/362/2004-IR (CM-II)]

AJAY KUMAR GAUR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, CHENNAI

Monday, the 11th December, 2006

PRESENT: K. JAYARAMAN, Presiding Officer

Industrial Dispute No. 80/2005

(In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947(14 of 1947), between the Management of Neyveli Lignite Corporation Ltd. and their workmen)

BETWEEN

Sri K. Devaraj : I Party/Petitioner

And

The Chairman cum Managing Director, Neyveli Lignite Corporation Ltd. Neyveli. : II Party/ Management

APPEARANCES

For the Petitioner : M/s. A.R. Suresh, J. Muthukumaran, Advocates

For the Management : M/s. N. A. K. Sarma, Advocates

AWARD

The Central Government, Ministry of Labour *vide* Order No. L-220 12/362/2004-IR(CM-II) dated 17-08-2005 has referred the dispute to this Tribunal for adjudication. The Schedule mentioned in dispute is as follows :

"Whether the action of the management of Neyveli Lignite Corporation Ltd., Neyveli in terminating the services of Shri K. Devaraj, Operator, Grade IV CPF No. 22960 is legal and justified? If not, to what relief the workman is entitled?

2. After the receipt of the reference, it was taken on file as I.D. No. 80/2005 and notices were issued to both the parties and they have entered appearance through their advocates and filed their Claim Statement and Counter Statement respectively.

3. The allegations of the Petitioner in the Claim Statement are briefly as follows :

The Petitioner joined the services of the Respondent/ Management on 1-4-1967 as casual labour and regularised from 1-8-1970 as unskilled. The Petitioner was dismissed from service by the Respondent/ Corporation on the ground that he has produced a bogus educational qualification certificate at the time of Joining duty in the Respondent/ Management. But the charges are false and frivolous. In the enquiry, the petitioner has produced all the documentary evidence and based on which the Enquiry Officer after satisfying himself has exonerated the Petitioner from the charge and acquitted him from service. But, subsequently, the Respondent/Management has ordered for *de novo* enquiry against the Petitioner. The Respondent has also not stated any reason for *de novo* enquiry. The Enquiry Officer in the de novo enquiry without taking into consideration of the statement of the Headmaster, who has issued the certificate, has found the Petitioner as guilty based on the biased and unilateral findings of the Enquiry Officer, the Disciplinary Authority issued dismissal order dismissing the Petitioner from the services of Res-spondent/ Management. The *de novo* enquiry ordered by the Respondent is illegal. The reason and necessity for the *de novo* enquiry was not communicated to the Petitioner. The fate of the earlier enquiry report was not communicated. The Headmaster of the school who has given the certificate and other students who have studied along with the Petitioner had been examined in the enquiry, but the Enquiry Officer has not considered their evidence. The Petitioner studied in elementary school of his village but the representatives of the Respondent went and enquired in the High School of the same village in which the Petitioner has not studied. Further, representatives of the management verified the admission register, but they have not verified the transfer certificate which the Petitioner produced in the Respondent corporation. The action of the Respondent is time barred since the Petitioner has joined the Respondent/Management during 1967 and they have verified the certificate only in the year 2000 after a long lapse of 35 years. Usually, the *bona fide* of the individual has to be verified within a period of six months

of their joining. Therefore, the action of the Respondent/ Management is illegal, arbitrary, biased and unilateral and no natural justice was followed. Hence, for all these reasons, the Petitioner prays that an award may be passed with back wages from the date of termination to his actual retirement, wage revision and time bound promotion and enhanced terminal benefits and other consequential relief.

4. As against this, the Respondent in its Counter Statement contended that the Respondent is a public sector undertaking having its own set of rules and regulations. It has certified standing orders for workmen under the Respondent Corporation. The rules and orders applicable to Central Govt. employees do not automatically apply to the corporation employees. The Petitioner has joined the Respondent as a casual labour on 1-4-67 and his services came to be regularised w.e.f. 1-8-71 and he was redesignated as industrial, worker w.e.f. 1-2-77 and it came to be known in the year 1996 that the school certificate produced by the Petitioner at the time of his joining the Respondent was bogus. Therefore, a charge memo dated 27-3-97 was issued to the Petitioner. The date of birth of the Petitioner was entered in service book as 7-6-43 among other things. Since the Petitioner denied the charge, domestic enquiry was ordered and Dr. M. Shanmugasundaram was appointed as Enquiry Officer. In the enquiry, the Respondent mainly relied on letter dated 4-6-96 issued by Headmaster of Govt. Higher Secondary School, Perperiyankuppam who had stated that the educational certificate produced by the Petitioner with admission No. 447 related to one Sri R. Palanivelu, S/o. Ramasamy and the school records did not contain the name of Mr. K. Devaraju, S/o. Kuppusamy against admission No. 447 But, however, the Headmaster failed to turn up, in spite of several communications issued to him. Based on this and also based on the evidence of two outside witnesses produced by the Petitioner, the Enquiry Officer came to the conclusion that the allegations against the Petitioner are not proved beyond doubt. Subsequently, it came to know that the above said Headmaster was threatened by the Petitioner not to attend enquiry as a witness and therefore, with a view to find out the truth as impersonation was also suspected in the case, decided to hold a de novo enquiry into the charges against the Petitioner. Therefore, Sri S. Gurusamynathan, Senior Personnel Manager PR department was appointed as Enquiry Officer for de novo enquiry. The Petitioner has fully participated in the enquiry along with his defence assistant and put forth his defence. Both sides marked documents and on conclusion, the Enquiry Officer in his report held that the Petitioner was guilty of charge. Based on the enquiry report and after following the due procedure, the Disciplinary Authority passed an order awarding penalty of removal of the Petitioner from service of the Corporation. Even the appeal preferred by the Petitioner against the penalty awarded to him was also rejected by the Appellate Authority. Therefore, the action taken against the Petitioner by the Respondent/Management is fair and justified. Therefore, it is legal, valid and binding on the Petitioner. There is nothing illegal or arbitrary or biased or mala fide attached to the whole proceedings as alleged by the Petitioner and there is no violation of any of the rules much less rules of natural justice as alleged by the Petitioner., Therefore, the Respondent prays that the claim may be dismissed with costs.

5. As against this, the Petitioner again filed rejoinder in which he alleged that in the de novo enquiry, the Enquiry Officer was unilaterally appointed by the Respondent without any notice to the Petitioner. No doubt, the Respondent/Management relied on the letter dated 4-6-96 issued by Headmaster, Govt. Higher Secondary School, Perperiyankuppam, but the Petitioner has studied only in the higher elementary school, therefore, no reliance can be placed on the letter issued by Headmaster, Govt. Higher Secondary School, Perperiyankuppam. The statements of witnesses of the Petitioner were not taken into consideration in de novo enquiry and also no mention about the same. The Petitioner was not permitted to cross examine the witnesses presented by the management and the principles of natural justice is grossly violated by the Respondent/Management by denying opportunity to cross examine the Headmaster, Higher Secondary School, who had given a false statement to the vigilance police constable. Any dispute regarding genuineness of certificate can be decided only by District Educational Officer or the Deputy Inspector of Schools and not by NLC vigilance branch, who had managed to get a certificate in their favour from the school where the Petitioner had not studied at all. The entire enquiry was held in a biased manner without giving any reasonable opportunity to the Petitioner and so the Disciplinary Authority should not place any reliance on the enquiry report. The action taken by the Respondent/ Management is highly illegal, arbitrary and unreasonable being violative of principles of natural justice and hence, for all these reasons, he prays for an award in his favour.

6. In these circumstances, the points for my consideration are—

(i) "Whether the action of the Respondent/Management in terminating the services of the Petitioner is legal and justified?"

(ii) "To what relief the Petitioner is entitled?"

Point No. I: 7.

The admitted case of both sides are that the Petitioner joined the Corporation as casual labour on 1-4-67. Subsequently, his services were regularised from 1-8-71 and he was redesignated as industrial worker w.e.f. 1-2-77. It is contended by the Respondent that charge memo was issued to the Petitioner on 23-7-96 alleging that the Petitioner while working in NLC General hospital has produced a bogus educational certificate issued by Govt. Higher

536 GI/07-21

Secondary School, Perperiyankuppam at the time of joining NLC. The enquiry was ordered to be conducted against this charge and the Enquiry Officer found that charge framed against the Petitioner was not 'proved. Subsequently, the Disciplinary Authority has come to the conclusion that material witness has been threatened from giving evidence by the Petitioner and on considering all the facts and giving fair opportunity to the respective parties, he has ordered de novo enquiry into the charge against the Petitioner.

8. On behalf of the Petitioner, it is contended that the Disciplinary Authority 'failed to communicate the Petitioner the reasons for ordering de novo enquiry and the fate of the earlier enquiry report was not communicated to the Petitioner with the reasons for disagreeing with the findings of the Enquiry Officer and the Petitioner was not afforded with opportunity to state his case against such disagreement. The standing orders provide for one enquiry and there is no provision for completely setting aside the previous enquiry on the ground that the report of the Enquiry Officer does not appeal to the Disciplinary Authority and under such circumstances, it is not valid to conduct another enquiry on the same charge.

9. Before this Tribunal, the Petitioner examined himself as WWl and also examined one Mr. Kuppusamy, who was examined even in the domestic enquiry as WW2. On the side of the Respondent, one Mr. Sankarraj working as Senior Personnel Manager, Mines I was examined as MW1. 16 documents produced on the side of the Petitioner are marked as Ex. Wl to W16 and documents produced by the Respondent/Management are marked as Ex. M1 to M16.

10. Learned counsel for the Petitioner contended that even if in a particular case, there has been no proper enquiry because some serious defect has crept into the first enquiry or' some important witnesses were not available at the time of enquiry or were not examined for some reasnns, the Disciplinary Authority may ask the Enquiry Officer to record further evidence but he is not empowered to completely washing out the first enquiry and order a de novo enquiry from the beginning. He further argued that if such a power is held to be there, then it would be left at the whims and fancies of the punishing authority and if the Disciplinary Authority is not agreed with the findings of the Enquiry Officer, he may depute another Enquiry Officer to go into the same charges and even if the 2nd Enquiry Officer exonerates the delinquent, yet a 3rd Enquiry Officer would be appointed and so on. Therefore, it is not fair on the part of the Disciplinary Authority to order de novo enquiry. It is his further argument that even in cases where the Disciplinary Authority is satisfied that some evidence which would have been available and not collected by the Enquiry Officer, he can direct the Enquiry officer to make further enquiry. But, there is no provision or rule to order for de novo enquiry by completely wiping out the enquiry already conducted. It is his further contention that in this case, the Disciplinary Authority vaguely stated that he finds reasonable grounds to differ with the findings of the Enquiry Officer but without disclosing as to what were the findings with which there is disagreement and the reasons therefor. The Respondent mentioned some untenable reasons in their counter for which there is no basis at all and the objections raised by the Petitioner for de novo enquiry were not at all considered and only without prejudice to his contention, he has participated in the de novo enquiry. Therefore, entire proceedings of de novo enquiry is ab initio, void and liable to be quashed.

11. As against this, on behalf of the Respondent it is contended that the 1st Enquiry Officer applying strict rules of evidence has exonerated the Petitioner in domestic enquiry, but, the said principle is not applicable to domestic enquiry and the II Party/Management came to understand that the above said Headmaster, who has given the certificate was threatened by the Petitioner not to attend the enquiry as a witness and therefore, in order to provide fair opportunity to the respective parties and to establish or defend their case" with a view to find out the truth as impersonation was also suspected in the case, the Disciplinary Authority decided to hold a de novo enquiry into the charge against the Petitioner. Further, the Petitioner is governed by standing orders of the Respondent/Management and in the standing orders, power to Disciplinary Authority to conduct de novo enquiry was given and therefore, in exercising of such power, the Disciplinary Authority ordered for de nova enquiry and it cannot be questioned by the Petitioner. Further, the Petitioner in his evidence has admitted that he was governed by standing orders of the Respondent corporation and he has also admitted that he has fully participated in the domestic enquiry along with his defence assistant and also examined his witness and under such circumstances, it is futile to contend that the order of de novo enquiry has vitiated the enquiry.

12. I find much force in the contention of the learned counsel for the learned counsel for the Respondent. Because in the standing orders of the Respondent/Management the Disciplinary Authority has got power to order for de novo enquiry and it was not disputed by the Petitioner in the evidence. Under such circumstances, I find the order of de novo enquiry cannot be questioned at this stage and further, the Petitioner has participated in the de novo enquiry fully and he has also examined the witnesses on his side and cross examined the witnesses of the management. Under such circumstances, I find there is no substance in the contention of the learned counsel for the Petitioner in this regard.

13. Then again, learned counsel for the Petitioner contended that the charge is the Petitioner has produced bogus educational qualification certificate issued by Govt. Higher Secondary School at the time of joining the NLC

Corporation. The charge on the face itself is vague and the Petitioner has denied the charges. At the time of joining the services of the Respondent in the year 1967, no educational qualification has been prescribed to a worker and he was absorbed in the Corporation services in the year 1970, only on the basis of his services as casual labourer. Hence, there is no necessity at all for the Petitioner to produce bogus educational qualification certificate. Further, normally the genuineness or otherwise of the educational certificate so produced by the Petitioner has to be verified within six months of the entry into service by an employee or before absorbing him into regular service. In this case, the Petitioner joined the services of the Respondent on 1-4-67 as casual labour and his service was regularised from 1-8-1970. If the management had entertained any doubt about the genuineness of the certificate, same should have been verified during this period from 1967 to 1970. But, the Respondent in this case has taken action only in the year 1996 i.e. after a lapse of 26 years. In this case, the Respondent/ Management mainly relied , on the letter dated 4-6-96 of the Headmaster, Govt. Higher Secondary School, Perperiankuppam. It is admitted by the Respondent/ Management that the Petitioner studied in Board Higher Elementary School in that village and the record sheet had been issued by the Headmaster of the school and the management has enquired the Headmaster of Govt. Higher Secondary School and based on the letter dated 4-6-96 issued by him, charge memo has been issued to him. When he has not studied in Higher Secondary School and the Higher Secondary School has not issued the certificate, the charge itself framed against the Petitioner is not, valid. Further, even though the Respondent/Management heavily relied on the letter dated 4-6-96 of Headmaster, Govt. Higher Secondary School, Perperiyankuppam, he was not examined as a management witness to sustain the charge against the Petitioner and without the author of the letter, his letter cannot be relied upon and the allegation cannot be said to have been sustained. If the Headmaster has been examined in the enquiry, the Petitioner would have had an opportunity to cross examine him on several points, but for the reasons best known to the Respondent/Management, the said Headmaster has not been examined, but his certificate was relied upon by the management.

14. I find some force in the contention of the learned counsel for the Petitioner. But, on the other hand, learned counsel for the Respondent contended that it is an admitted fact that the Higher Elementary School in which the Petitioner has alleged to have been studied was upgraded as High School in the year 1962 itself. It is also supported by the letter of present Headmaster of Govt. Higher, Secondary School and also the witness who was examined on the side of the Petitioner namely. Mr. Kuppuswamy, who worked as a teacher in the Higher Elementary School and subsequently in the High School. Under such circumstances, the record sheet produced by the Petitioner at the time of joining the II Party/Management corporation, if it is genuine, cannot be with the seal of Higher Elementary School without the counter signature of High School, Perperiyankuppam in the year 1964, when the school was already upgraded and hence, the record sheet produced by the Petitioner cannot be treated as a bona fide one. Learned counsel for the Respondent further contended that the date of birth mentioned in the record sheet under Ex.W 1 is 07-06-1943 and as per the record sheet, the Petitioner was studying VIII standard at the age of 17 1/2 years, whereas he has completed 5th, 6th and 7th standard in the normal course without any fail. This appears to the Enquiry Officer as a major point indicating bogus nature of the certificate. Since the Petitioner has not produced any evidence in support of the lapse of three or four years between his Elementary and Higher Elementary Education. Then, again the Respondent produced Ex. M2, which is a statement given by the Petitioner. In this, he admitted that his younger sister Mrs. Muthulakshmi was married to one Mr. Subramaniam @ Devaraj, S/o. Chinnasamy of Athandar Kollai village. It is also the case of the Respondent that the said Subramaniam has been found impersonating as Devaraj and this statement was not disputed by the Petitioner during domestic enquiry as well as before, this Tribunal. The signature in Tamil in the Record. Sheet produced by Mr. Subramanian found impersonating as Devaraj and Tamil signature of the Petitioner herein on the driving licence are very much alike though many years have passed. Even in the record sheet given by Mr. Devaraj, which is marked as Ex.M14 by Thoppilikuppam school, the name of the father is mentioned as Kuppusamy. But, in the statement given before the Vigilance Officer, the Petitioner himself has mentioned that his brother-in-law's father's name as Chinnasamy. All these facts clearly establish that the Petitioner has produced a bogus certificate with regard to his educational qualification. If really, the Respondent Corporation does not require any certificate with regard to educational qualification there need not be any requirement for the certificate to be produced by the Petitioner. On the other hand, the basic qualification is necessary for a workman. Under such circumstances, the Petitioner has produced the certificate under original of Ex.WI before the management. Under such circumstances, it cannot be said that the document produced by the Petitioner under Ex. WI is a genuine one. Further, learned counsel for the Respondent contended that the Tribunal or Court would not interfere with the administrator's decision, unless it is illogical or suffered from procedural propriety or was shocking to the conscience of the Court in the sense that it was in defiance of logic or moral standards. Only if the punishment is shockingly disproportionate, it would be appropriate for the Court to direct the Disciplinary Authority or the Appellate Authority to reconsider the punishment. Since in this case, it is not shown that the findings given by the Enquiry Officer is illogical or suffered from procedural propriety or shocking

the conscience of the Court, it cannot be said that this Tribunal should Further, interfere with the findings given by the domestic authorities learned counsel for the Respondent contended that there is a difference between a finding, which is not supported by any legal evidence and a finding which may appear to be not supported by sufficient evidence or may be based on inadequate or unsatisfactory evidence. Even a wrong finding is not necessarily a perverse finding and a finding cannot be described to be perverse merely because it is possible to take a different view on the evidence. In this case, nothing was shown before this Tribunal to show that, the finding given by the domestic authorities are perverse, on the other hand, the findings given by the domestic authorities are legal and only after considering the evidence adduced on both sides they have come to such conclusion and therefore, it cannot be said that it is illogical or suffered from procedural propriety or was shocking to the conscience of the Court. Therefore, this claim is not maintainable before this Tribunal.

15. I find much force in the contention of the learned counsel for the Respondent. Further, learned counsel for the Respondent contended that even in 2002 10 SCC 430 SECRETARY, A. P. SWRE I SOCIETY Vs. J. PRATHAP AND OTHERS, wherein the Supreme Court has held in a similar case, in which the Respondents produced fake degrees in obtaining employment and in the domestic enquiry held the charge framed against them found proved. In challenging their termination of service, the Supreme Court has held that the action of the Respondents was unpardonable and the High Court erred in modifying the punishment of termination into withholding of two increments and therefore, the Supreme Court has restored the order of termination in that case. Similarly, in this case, the Petitioner was appointed by producing bogus educational qualification certificate. Under such circumstances, it cannot be said that the order of termination passed by the domestic authorities, cannot be said as disproportionate to the charge framed against the Petitioner. Therefore, he argued that the order passed by the Respondent is valid and justified.

16. I find much force in the contention of the learned counsel for the Respondent. As I have already stated the Petitioner has not shown before this Tribunal that the findings given by the domestic authorities are perverse and they have not shown that the punishment imposed on the Petitioner is disproportionate to the charges framed against him. Therefore, I find this point against the Petitioner.

Point No. 2 :

The next point to be decided in this case is to what relief the Petitioner is entitled?

17. In view of my foregoing findings that the action of the Respondent/Management in imposing the punishment of termination from service on the Petitioner is legal and justified, I find the Petitioner is not entitled to any relief. No Costs.

18. Thus, the reference is answered accordingly.

(Dictated to the P.A., transcribed and typed by him, corrected and pronounced by me in the open Court on this day the 11th December, 2006.)

K. JAYARAMAN, Presiding Officer

Witnesse's Examined :

For the Petitioner : WW1 Sri K. Devaraju

WW2 Sri D. Kuppuswamy

For the Respondent : WW1 Sri P. Sankararaj

Documents Marked :

For the I Party/Petitioner :

Ex. No.	Date	Description
W1	Nil	Xerox copy of the record sheet
W2	23-7-96	Xerox copy of the charge memo
W3	29-7-96	Xerox copy of the order for appointment of Enquiry Officer
W4	08-09-98	Xerox copy of the order for appointment of 2nd Enquiry Officer
W5	28-9-98	Xerox copy of the order for appointment of 2nd Enquiry Officer
W6	9-10-98	Xerox copy of the enquiry notice
W7	26-10-98	Xerox copy of the letter from Petitioner to Disciplinary Authority objecting for de novo enquiry
W8	6-11-98	Xerox copy of the letter requesting for documents.
W9	17-11-98	Xerox copy of the rejection order
W10	20-4-98	Xerox copy of the enquiry report
W11	29-4-00	Xerox copy of the findings of the Enquiry Officer
W12	15-9-00	Xerox copy of the show cause notice
W13	29-9-00	Xerox copy of the explanation given by Petitioner
W14	27-10-00	Xerox copy of the final order passed against the Petitioner
W15	21-01-01	Xerox copy of the appeal preferred by Petitioner.
W16	16-09-97	Xerox copy of the proceedings of President, District Board South Arcot, Cuddalore with regard to appointment of teachers

For the II Party/Management:

Ex. No.	Date	Description
M 1	16-04-96	Xerox copy of the record sheet
M2	16-04-96	Xerox copy of the statement of Devaraju
M3	Nil	Xerox copy of the driving licence of K. Devaraju
M4	06-06-96	Xerox copy of the statement of K. Devaraju
M5	Nil	Xerox copy of the service record of K. Devaraju
M6	23-07-96	Xerox copy of the charge memo
M7	10-03-98	Xerox copy of the report of first enquiry
M8	28-09-98	Xerox copy of the proceedings of II Party ordering De novo enquiry.
M9	29-04-00	Xerox copy of the report of de novo enquiry
M10	15-09-00	Xerox copy of the provisional show cause notice
M11	27-10-00	Xerox copy of the final order
M12	08-06-01	Xerox copy of the order in appeal.
M13	04-06-96	Xerox copy of the letter of Headmaster, Govt. Higher Secondary School.
M14	Nil	Xerox copy of the record sheet of Devaras
M15	05-06-96	Xerox copy of the letter of Headmaster, Panchayat Union Elementary School, Thoppilikuppam
M16	23-03-96	Xerox copy of the letter of Headmaster, Panchayat, Union Elementary School, Perperiankuppam.

नई दिल्ली, 9 फरवरी, 2007

का.आ. 668.–औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सी.पी.डब्ल्यू. डी. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण इरनाकुलम के पंचाट (संदर्भ संख्या 262/2006) को प्रकाशित करती है, जो केन्द्रीय सरकार को 9-2-2007 को प्राप्त हुआ था ।

[सं. एल-42012/205/2005-आई आर (सी-II)]
अजय कुमार गौड़, डेस्क अधिकारी

New Delhi, the 9th February, 2007

S.O. 668.— In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 262/2006) of the Central Government Industrial Tribunal-cum-Labour Court, Ernakulam as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of C.P.W.D. and their workmen, which was received by the Central Government on 9-2-2007.

[No. L-42012/205/2005-IR (C-II)]
AJAY KUMAR GAUR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, ERNAKULAM

PRESENT

Shri. P. L. Norbert, B.A., LL.B., Presiding Officer

(Wednesday the 31st day of Januay, 2007/11th Magha, 1928)

INDUSTRIAL DISPUTE No. 262/2006

Workman/Union : The Secretary
Central PWD Mazdoor Union
Income Tax Building, Mananchira
Calicut-1.

Management : : The Ex. Engineer
Trivandrum Central Divison
CPWD, CGO Complex,
Punkulam Trivandurm-695 522

Adv. Thomas Mathew Nellimootil.

AWARD

This is reference made by Central Government under Section 10(1)(d) of Industrial Disputes Act, 1947 to this court for adjudication. The reference is :

"Wheher the action of the management of CPWD in not paying remaining 93 hours of OTA to Shri C. K. Narayanankutty, Chowkidar is legal and justified? If not, to what relief the workman is entitled?"

2. Though notice was issued to both sides management along entered appearance. The union is remaining absent continuously. There is no representation also for the workman. It has to be presumed therefore that there is no subsisting dispute for adjudication.

3. In the result, an award is passed finding that the action of the management in not paying the remaining 93 hours of OTA to Shri C. K. Narayanankutty, Chowkidar is legal and justified and the workman is not entitled to any relif. No cost.

Dictated to the Personal Assisant, traanscribed and typed by her, corrected and passed by me on this the 31st day of January, 2007.

P. L. NORBERT, Presiding Officer

APPENDIX: NIL

नई दिल्ली, 12 फरवरी, 2007

का.आ. 669.–औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार स्टेट बैंक आफ बीकानेर एंड जयपुर के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण लखनऊ के पंचाट (संदर्भ संख्या 9/2006) को प्रकाशित करती है, जो केन्द्रीय सरकार को 12-2-2007 को प्राप्त हुआ था ।

[सं. एल-12012/137/2000-आई आर (बी-I)]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 12th February, 2007

S.O. 669.— In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 9/2006) of the Central Government Industrial Tribuna/Labour Court, Lucknow now as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of State Bank of Bikaner & Jaipur and their workmen, which was received by the Central Government on 12-2-2007.

[No. L-12012/137/2000-IR (B-I)]

AJAY KUMAR, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, LUCKNOW

PRESENT

Shrikant Shukla, Presiding Officer

I. D. No. 9/2006

Ref. No. L-12012/137/2000-IR (B-I) Dt. 1st May 2006

BETWEEN

Sri Santosh Kumar Shukla
S/o Sri K. K. Shukla
C/o R. K. Panday A. R. 67/99
Lal Kuwan, Lucknow (UP)

And

The Chairman & Managing Dierctor
State Bank of Bikaner & Jaipur
Head Office, Tilak Marg,
Jaipur (Rajasthan)

AWARD

The Government of India, Ministry of Labour New Delhi referred the following issue vide No. L-12012/137/2000-IR (B-I) dated 1st May 2006 for adjudication to the Presiding Officer CGIT-cum-Labour Court, Lucknow ;

> "Wheher the action of the management of State Bank of Bikaner & Jaipur, Jaipur in terminating services of Sri Santosh Kumar Shukla w.e.f. 6-6-85 is justified? If not, to what relief the applicant is entitled to ?"

Case of the worker is that he was into employment of opposite party bank on the post of peon against a permanent post by oral order of the Branch Manager of the opposite party bank in its branch at Lucknow on 18-3-85. It is also submitted that he worked for 80 days at a stretch and thereafter his services were terminated. The aforesaid practice has been adopted by the bank with a view to deprive such persons including worker to complete 240 days in a year. It is further alleged that subsequent to his termination new hand have been engaged but no opportunity was given to the worker hence there has been a breach of section 25 H of the I. D. Act. It has therefore been prayed by the worker that oral termination may be set aside and the worker be reinstated with all back wages and other consequential benefits.

The worker filed photo copy of certificate of employment showing that he was engaged as peon on temporary status for 80 days w.e.f. 18-3-85 to 5th June 1985. The worker has also filed photo copy of award paper No. 4/6 of CGIT-cum-Labour Court, Kanpur.

The opposite party did not file any written statement. It has only put in appearance through its representative who has filed authority letter A2/6.

Case has been ordered to proceed ex-party on 15-9-06. The worker examined himself as sole witness and has filed photo copies of the following documents :

1. Photo Copy of passed by Hon'ble High Court, Lucknow Bench dt. 14-12-05 in writ petition No. 6596 (S/s)2000

2. Reply filed by bank before Asstt. Labour Commissioner (C) Lucknow dt. 26-11-99.

3. Award of CGIT-cum-Labour Court, Kanpur dt. 29-1-86 in I. D. No. 8/04.

4. Award of CGIT-cum-Labour Court, Kanpur dt. 30-9-97 passed in I.D. No. 124/86.

Worker by his own evidence on oath has proved that he has worked from 18-3-85 to 5-6-85 in State Bank of Bikaner & Jaipur, Aliganj, Lucknow as peon and he was getting Rs. 840/- per month. He has further stated that he was appointed by Sardar Mahendra Singh. Branch Manger. Further he has stated that he has not given any appointment letter and was terminated by oral order on 6-6-85. He has further stated that he has not been given any notice and has appointed Awdesh Srivastava, Mahesh who have also worked as he has worked. The worker has stated that Labour Court, Kanpur on 29 June 1986 and 30th Sept. 1997 passed an award of such person who were similarly terminated. He has also stated that he has not given any application to the bank for taking back in the service.

The only document in respect of his service of the worker, the worker has filed the photo copy of certificate of employment i. e. paper No. 4/5 the contents of which are reproduced below.

TO WHO SOEVER IT MAY CONCERN

3-6-86

This is to certify that Sri Santosh Kumar Shukla S/o Sri. Krishan Kumar Shukla worked as a peon on purely temporary basis for eighty days at our branch from the 18th March, 1985 to 5th June, 1985.

Sd/-

Manager
State Bank of Bikaner & Jaipur
Aligunj, Lucknow

From the persual of the said document it is revealed that the worker was appointed for fixed period of 80 days and after the expiration of that period the worker has not been employed again. In the circumstances section 2(oo) is attracted, which is reproduced below ;

2. (oo) "retrenchment" means the termination by the employer of the service of a workman for any reason whatsoever, otherwise than as a punishment inflicted by way of disciplinary action but does not included—

(a) voluntary retirement of the workman ; or

(b) retirement of the workman on reaching the age of superannuation of the contract of employment between the employer and the workman concerned contains a stipulation in that behalf; or

(bb) termination of the service of the workman as a result of the non-renewal of the contract of employment between the employer and the workman concerned under its expiry or of such contract being terminated under a stipulation in that behalf contained therein ; or

(c) termination of the service of a workman on the ground of continued ill health ;

From the foregoing provisions it is clear that the case of the worker who was engaged for the contract period of only 80 days can not be termed as retrenchment nor employment of worker thereafter can not be claim to be employed under the opposite party. It is clear from the evidence that he has not been appointed in the bank of following prescribed procedure for recruitment. The non employment of the worker thereafter is not illegal or unjustified. The issue is answered accordingly and the worker is not entitled to any relief.

Lucknow
1-2-2007

SHRIKANT SHUKLA, Presiding Officer

नई दिल्ली, 12 फरवरी, 2007

का.आ. 670.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार उत्तर रेलवे के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, लखनऊ के पंचाट (संदर्भ संख्या 98/2002) को प्रकाशित करती है, जो केन्द्रीय सरकार को 12-2-2007 को प्राप्त हुआ था ।

[सं. एल-41012/192/2001-आई आर (बी-1)]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 12th February, 2007

S.O. 670.— In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 98/2002) of the Central Government Industrial Tribunal-cum-Labour Court, Lucknow now as shown in the Annexure, in the Industrial Dispute between the employers in relations to the management of Northern Railway and their workmen, which was received by the Central Government on 12-2-2007.

[No. L-41012/192/2001-IR (B-I)]

AJAY KUMAR, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, LUCKNOW

PRESENT:

Shrikant Shukla, Presiding Officer

I. D. No. 98/2002

Ref. No. L-41012/192/2001-IR (B-I)

Dt. 9th May, 2006

BETWEEN

Smt. Geeta Devi W/o. Mohan Dass,
R/o. Bhartiya State Bank, Mussoorie
Distt. Dehradun

And

The Divl. Commercial Supdt.
Northern Railway,
Moradabad (U.P.)

The Supervisor
Railway Out Agency
Northern Railway, Mussoorie

AWARD

The Government of India, Miniastry of Labour New Delhi referred the following dispute for adjudication vide No. No. L-41012/192/2001-IR (B-I) dated 9-5-2002 to the presiding officer, CGIT-cum-Labour Court, Lucknow.

"क्या प्रबन्धक मण्डल, वणिज्य अधीक्षक, उत्तर रेलवे, मुरादाबाद द्वारा श्रीमती गीता देवी, पार्ट टाइम स्वीपर को दिनांक 9.4.99 से नौकरी से निकाला जाना न्यायोचित है ? अगर नहीं तो वह किस अनुतोष की अधिकारी है ?"

The admitted facts of the case is that Mussoori is a Hill Station which is now situated in Uttarakhand. There is about agency office presently engaged in selling of Railway tickets. It is also admitted fact that the said out agency is in a rented accommodation comprising of a hall, a room and warrandah of 10 ft into 4 ft. and flash laterine. It is also admitted fact that Smt. Geeta Devi was engaged as

part time safaikarmi at the remuneration of Rs. 100 per month.

The case of the workman is that she was appointed on 12-8-91 and she continue to work for six hours per day @ 100 per month. It is also submitted that on 7-6-86 she gave an application for enhancement in the salary. She was assured that her salary will be enhanced but her salary was not enhanced therefore she got the legal notice served on the opposite party. Ultimately the employer illegally without notice and without compensation dispensed with the services of Smt. Geeta Devi violating the provision of Section 25F of the I.D. Act. Accordingly she has prayed for reinstatement with all consequential benefits.

Opposite party has submitted that there was no need to engage the safaikarmi as, for cleaning the premises it hardly required the work for 30 to 35 minutes. As such the domestic sweepers Smt. Geeta Devi was deployed for cleaning the said premises. It is also submitted that there was a parcel room but it was closed down and railway stopped parcel booking for the last 8 years and only tickets are sold by the out agency. It is also submitted that railway offered wages of Rs. 300 but the worker herself stopped cleaning work and stopped coming to the out agency. It has been denied that Smt. Geeta Devi was ever terminated by the opposite party. It is also stated that case does not come within the definition of retrenchment.

This court has been referred the issue of termination to adjudicet as to whether the termination of Smt. Geeta Devi part time sweeper w.e.f. 9-4-99 is valid or otherwise. There is no reference to this effect that whether the salary paid to her was proper or not. There is also no reference to this effect whether or not Smt. Geeta Devi was entitled to temporary status. In the circumstances this court has to confine itself with the issue referred.

The issue referred is about termination of part time sweeper Smt. Geeta Devi.

Worker Smt. Geeta Devi has filed photo copy of the following documents;

1. Photo copy of application dt. 5-3-96.
2. Photo copy of acknowledgment receipt dt. 20-3-96, June 97.
3. Photo copy of application of Smt. Geeta Devi with the endorsement dt. 19-6-96.
4. Photo copy of inspection note dt. 2-6-97.
5. Photo copy of application dt. 7-6-98.
6. Photo copy of inspection note dt. 7-6-98.
7. Photo copy of legal notice dt. 18-5-99 by Sri S.L. Grover to the General Mgr. NR New Delhi. though Advocate Sri S.L. Grover.

Smt. Geeta Devi has filed her affidavit in support of her case and she has been cross examined by the representative of the opposite party.

Smt. Geeta Devi has also filed a application dt. 14-9-04 addressed to Mandal Railway Manager, Uttar Railway Moradabad.

Opposite party has filed the affidavit of Asstt. Commercial Manager who has been cross examined by representative of the worker.

Heard representative of the parties and perused evidence on record.

Opposite party has argued that the out agency comprises of hall and room, warrandah alongwith latrine. The worker has admitted the said fact in the cross examination.

Worker has also admitted that this out agency has two clerks for work and it had a peon of the railway and there is jute matting in the room and house. This fact is also admitted by the worker. Worker has also admitted that the parcel booking is stopped, but she could not tell the period since when the parcel room is stopped. She admits that the parcel room is locked and there is only selling of the tickets in the out agency. She has denied that she only 1/2 hour work in performing the cleaning work of the said office.

Management's representative argued that looking the small quantum of work the railway never took the decision to employee of safaikarmi. The worker has in a question to the court replied that the she is not prepared to work for 1/2 hour at the meaqure salary of Rs. 300.

Learned representative of the opposite party has alleged that although offer was made to the worker for payment of Rs. 300 but the worker herself left the job.

Asstt. Commercial Manager in his statement has stated that since the area of room and hall is covered by the carpet and the not question of cleaning it by the wet cloth. He has also stated that like other domestic sweeper she was engaged for cleaning the premises and it consumed only 30-35 minutes and therefore she was paid labour charges Rs. 100 per month. Opposite party has also stated that she was not engaged on daily wage basis or full time basis. Asstt. Commercial Manager stated she has been demanding for regular service and was challenging to go to court and therefore she herself stopped coming to agency since 18-5-99. He has also stated that there is no sanction post of safaikarmi in the out agency and the worker was never asked to perform the duty of peon since the peon was already there.

Smt. Geeta Devi in her cross examination in page 2 has admitted that she was part time sweeper. She has also admitted that she was neither casual labour nor regular employee.

In the circumstances it is admitted fact that Smt. Geeta Devi was a part time sweeper and in the circumstances of the case it could not be said that the part time sweeper had job of more than 1 hour in any case. In the

circumstances if the out agency engaged a domestic help for cleaning the premises @ Rs. 100 per month 15 years back does not seem to be unusual or impractical.

From the minutes of inspection dtd. 2-6-97 it is made out that Om Prakash, DRM, Moradabad conducted routine inspection of out agency, Mussoorie on 2-6-97 wherein Smt. Geeta Devi requested for suitable increase in the payment on account for inflation in this period. DRM found the request reasonable and observed suitable increase be allowed. There is yet another application of dtd. 7-5-98 addressed to Divl. Commercial Supdt., Northern Railway, Moradabad in which she requested that her wages have not been increase. The said application is addressed to the Sr. Divl. Commercial Supdt. on 7-6-98 which find place in inspection note dtd. 7-6-98.

In appears that Smt. Geeta Devi got a notice sent to the General Manager, Northern Railway, New Delhi through her advocate Sri S. L. Grover on 18-5-99 wherein it is said that she is terminated on 9-4-99 and in the notice advocate requested that Smt. Geeta Devi be allowed to continue her work and to pay Rs. 550 on account of cost of this notice failing which Smt. Geeta Devi will have no option except to take legal action against the Union of India.

On the other hand Sri Shamsher Singh Asstt. Commercial Manager has filed the affidavit alleging that the worker was demanding for permanent employment and was repeatedly telling that she will go to the court and for this reason she herself discontinued attending work w.e.f. 18-5-99. The said Asstt. Commercial Manager has also admitted that Smt. Geeta Devi was requesting to increase the remuneration and since the same was not accepted Smt. Geeta Devi stopped attending the work.

During the court of proceedings he representative of the management stated that the management of the railway is prepare to pay Rs. 300 to the worker for her part time work of 30-35 minutes but the worker Smt. Geeta Devi refused to work in return of Rs. 300. During the cross examination of Smt. Geeta Devi when the court questioned about her readiness to work if she is offered Rs. 300 per month, Smt. Geeta Devi replied: मैं 300 रु. महीने पर 1/2 घंटा भी काम करने को तैयार नहीं हूं ।

This suggests that the version of the management witness Sri Shamsher Singh, Asstt. Commercial Manager is correct that she herself declined to work w.e.f. 18-5-99. In the circumstances, I come to the conclusion that Smt. Geeta Devi was not terminated instead she herself deserted her employer on the issue of meagre salary.

The representative of the opposite party has filed photo copy of following citations;

1. 1998 SCC (L&S) `1281 Union of India and others vs. KG Radha Krishan Panikar and others.

2. 2006 UAD 883 Supreme Court of India, Secretary state of Karnataka and others vs. Uma Devi and others.

Both the cases cited above are not on the issue of termination .The learned representation of the worker has tried to argue that on completion of 120 days of service she was entitled to the temporary status and the wages accordingly.

The issue referred to is not that whether or not Smt. Geeta Devi was entitled to temporary status or wages. In fact the issue referred to adjudication as to whether the termination of Smt. Geeta Devi w.e.f. 9-4-99 is legal and proper. On consideration of entire evidence on record I come to the conclusion that Smt. Geeta Devi was not terminated as alleged, but she herself deserted the work. The issue is therefore decided against the worker. I also come to the conclusion that the worker is not entitled to any relief Award passed accordingly.

Lucknow:

1-2-2007 SHRIKANT SHUKLA, Presiding Officer

नई दिल्ली, 21 फरवरी, 2007

का.आ. 671.–केन्द्रीय सरकार संतुष्ट है कि लोकहित में ऐसा अपेक्षित है कि ताम्बा खनन उद्योग में सेवाओं को जिसे औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की प्रथम अनुसूची की प्रविष्टि 13 के अन्तर्गत निर्दिष्ट किया गया है, उक्त अधिनियम के प्रयोजनों के लिए लोक उपयोगी सेवाएं घोषित किया जाना चाहिए।

अत: अब, औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 2 के खण्ड (ढ) के उप-खण्ड (6) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार उक्त उद्योग को उक्त अधिनियम के प्रयोजनों के लिए तत्काल प्रभाव से छ: मास की कालावधि के लिए लोक उपयोगी सेवा घोषित करती है ।

[फा. सं. एस-11017/11/97-आई आर (पी.एल.)]

गुरजोत कौर, संयुक्त सचिव

New Delhi, the 21st February, 2007

S. O. 671.—Whereas the Central Government is satisfied that the public interest requires that the services in the Copper Mining Industry which is covered by item 13 of the First Schedule to the Industrial Disputes Act, 1947 (14 of 1947), should be declared to be a Public Utility Service for the purposes of the said Act.

Now, therefore, in exercise of the powers conferred by sub-clause (vi) of clause (n) of Section 2 of the Industrial Dispute Act, 1947, the Central Government hereby declares with immediate effect the said industry to be a Public Utility Service for the purpose of the said Act for a period of six months.

[F. No. S-11017/11/97-IR(PL)]

GURJOT KAUR, Jt. Secy.

नई दिल्ली, 22 फरवरी, 2007

का.आ. 672.–केन्द्रीय सरकार संतुष्ट हो जाने पर कि लोकहित में ऐसा करना अपेक्षित था, औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 2 के खण्ड (ढ़) के उप-खण्ड (6) के उपबंधों के अनुसरण में भारत सरकार के श्रम मंत्रालय की अधिसूचना संख्या का.आ. 3452 दिनांक 17-8-2006 द्वारा नाभिकीय ईंधन, संघटक भारी पानी और संबंध रसायन तथा आणविक उर्जा जो कि औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की प्रथम अनुसूची की प्रविष्टि 28 में शामिल है, को उक्त अधिनियम के प्रयोजनों के लिए 26-8-2006 से छः मास की कालावधि के लिए लोक उपयोगी सेवा घोषित किया था;

और केन्द्रीय सरकार की राय है कि लोकहित में उक्त कालावधि को छः मास की और कालावधि के लिए बढ़ाया जाना अपेक्षित है;

अतः अब, औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 2 के खण्ड (ढ़) के उप-खण्ड (6) के परन्तुक द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार उक्त उद्योग को उक्त अधिनियम के प्रयोजनों के लिए दिनांक 26-2-2007 से छः मास की कालावधि के लिए लोक उपयोगी सेवा घोषित करती है ।

[फा. सं. एस-11017/3/97-आई आर (पी.एल.)]

गुरजोत कौर, संयुक्त सचिव

New Delhi, the 22nd February, 2007

S.O. 672.—Whereas the Central Government having been satisfied that the public interest so requires that in pursuance of the provisions of sub-clause (vi) of the clause (n) of Section 2 of the Industrial Disputes Act, 1947 (14 of 1947), declared by the Notification of the Government of India in the Ministry of Laour S.O. No. 3452 dated 17-08-2006 the service in the Industrial Establishments manufacturing or producing Nuclear Fuel and Components, Heavy Water and Allied Chemicals and Atomic Energy which is covered by item 28 of the First Schedule to the Industrial Disputes Act, 1947 (14 of 1947) to be a public Utility Service for the purpose of the said Act, for a period of six months from the 26th August, 2006.

And whereas, the Central Government is of opinion that public interest requires the extension of the said period by a further period of six months.

Now, therefore, in exercise of the powers conferred by the proviso to sub-clause (vi) of clause (n) of Section 2 of the Industrial Disputes Act, 1947, the Central Government hereby declares the said industry to be a public utility service for the purposes of the said Act, for a period of six months from the 26th February, 2007.

[F. No. S-11017/3/97-IR (PL)]

GURJOT KAUR, Jt. Secy.

नई दिल्ली, 26 फरवरी, 2007

का.आ. 673.–केन्द्रीय सरकार संतुष्ट हो जाने पर कि लोकहित में ऐसा करना अपेक्षित था औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 2 के खण्ड (ढ़) के उप-खण्ड (6) के उपबंधों के अनुसरण में भारत सरकार के श्रम मंत्रालय की अधिसूचना संख्या का.आ. 3748 दिनांक 28-8-2006 द्वारा भारत सरकार टकसाल, कोलकाता, मुम्बई, नोएडा, चेरलापल्ली (रंगारेड्डी) एवं हैदराबाद जो कि औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की प्रथम अनुसूची की प्रविष्टि 11 में शामिल है, को उक्त अधिनियम के प्रयोजनों के लिए 28-8-2006 से छः मास की कालावधि के लिए लोक उपयोगी सेवा घोषित किया था;

और केन्द्रीय सरकार की राय है कि लोकहित में उक्त कालावधि को छः मास की और कालावधि के लिए बढ़ाया जाना अपेक्षित है;

अतः अब, औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 2 के खण्ड (ढ़) के उप-खण्ड (6) के परन्तुक द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार उक्त उद्योग को उक्त अधिनियम के प्रयोजनों के लिए दिनांक 28-2-2007 से छः मास की कालावधि के लिए लोक उपयोगी सेवा घोषित करती है ।

[फा. सं. एस-11017/2/2002-आई आर (पी.एल.)]

गुरजोत कौर, संयुक्त सचिव

New Delhi, the 26th February, 2007

S.O. 673.—Whereas the Central Government having been satisfied that the public interest so requires that in pursuance of the provisions of sub-clause (vi) of the clause (n) of Section 2 of the Industrial Disputes Act, 1947 (14 of 1947), declared by the Notification of the Government of India in the Ministry of Laour S.O. No. 3748 dated 28-08-2006 the service in India Government Mints at Koklata/Noida/Mumbai/Hyderabad/Cherlapalli (Ranga Reddy) which is covered by item 11 of the First Schedule to the Industrial Disputes Act, 1947 (14 of 1947) to be a public utility service for the purpose of the said Act, for a period of six months from the 28th August, 2006.

And whereas, the Central Government is of opinion that public interest requires the extension of the said period by a further period of six months.

Now, therefore, in exercise of the powers conferred by the proviso to sub-clause (vi) of clause (n) of Section 2 of the Industrial Disputes Act, 1947, the Central Government hereby declares the said industry to be a public utility service for the purposes of the said Act, for a period of six months from the 28th February, 2007.

[F. No. S-11017/2/2002-IR (PL)]

GURJOT KAUR, Jt. Secy.

Printed by the Manager, Govt. of India Press, Ring Road, Mayapuri, New Delhi-110064
and Published by the Controller of Publications, Delhi-110054.